

reNew California

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VIA MESSENGER

December 31, 2009

Offices of the Honorable Edmund G. Brown, Jr.
Attorney General of the State of California
Attention: Ms. Krystal Paris, Initiative Coordinator
1300 "T" Street, 17th Floor
Sacramento, California 95814

Re: The Renew California Act of 2010

Dear Ms. Paris:

By this letter I respectfully request that the Attorney General's Office prepare a title and summary for the above-referenced Initiative Constitutional Amendment. The text of the measure is attached.

The measure amends the California Constitution in whole, as an exercise of the powers that inhere in the people of the State of California, in order to:

- Impose fiscal responsibility and accountability on our State and local governments
- Reduce the State's control over our public schools and other local governments, including by returning control to the people
- Provide additional funding for our public schools, colleges and universities so they again can offer an exceptional education that is affordable to all

Also enclosed please find the following:

- A check payable to the State of California in the amount of \$200
- The statement of a proponent as required by the Elections Code, together with the voter registration address

Given the nature and scope of the amendments, I am inclined to the view that no meaningful fiscal analysis is possible. I will forward under separate cover a suggested ballot title and summary.

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

reNew California

Please note that extensive legal research has been undertaken to confirm that this initiative is permissible under the terms of our current Constitution.

If you have any questions or require any further information, please contact Renew California at the email address or telephone number set forth above. Or you may contact me at my office with the law firm of Orrick, Herrington & Sutcliffe LLP in San Francisco at 415-773-5460.

Please note that my firm is not endorsing, sponsoring or supporting this initiative. Rather, I am contributing my time to this effort in my individual capacity.

I am hopeful that this initiative will accomplish what is intended – to Renew California.

I thank you in advance for your assistance.

William M. Doyle

Encs.

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SECTION ONE. TITLE

This act shall be known as "The Renew California Act of 2010."

SECTION TWO. PREAMBLE, FINDINGS AND DECLARATIONS

WE THE PEOPLE OF THE STATE OF CALIFORNIA, in order to:

- Exercise the powers reserved to us as citizens of this great State;
- Affirm our individual rights and freedoms;
- Ensure equal justice, liberty and opportunity for all;
- Restore the integrity of our Constitution;
- Determine the structure and responsibilities of our State government and the limitations on its powers;
- Respect our diversity, including in ethnicities, cultures, religions, experiences, abilities and views;
- Establish greater local control over our local governments, including our public schools;
- Protect us from excessive taxation and other governmental exactions;
- Provide public schools of exceptional quality for our children;
- Offer affordable public higher education at State colleges and universities that are among the best in the world;
- Preserve and protect our environment and our parks, wilderness areas and other public lands for future generations;
- Impose ethical standards on our public officials;
- Encourage qualified and experienced individuals who are dedicated to the common good to seek public office;
- Guard us from undue influence on our government by those who seek to advance their special interests at the expense of the common good; and
- Do so in plain language and fewer words;

DO FIND AND DETERMINE that this amended Constitution: (1) is an expression of the fundamental rights and powers that inhere in the people; (2) is an interdependent, integrated and indivisible whole; (3) is necessary in order to further compelling public purposes and the public interest; (4) is vitally important for the proper functioning, financial health, and prosperity of this State; (5) does not impose any provision to the detriment of the common good in order to achieve its purposes; (6) differs from an initiative statute, in that it affirms and establishes fundamental principles, rather than enacting laws which implement them; (7) is the same in substance as a vote by the people on an amended Constitution drafted by a Constitutional Convention in which they do not participate; and (9) as a practical matter could not be accomplished in any other way; and therefore;

DO DECLARE, ADOPT AND APPROVE this Constitution and amend the former Constitution of the State of California as set forth below, and, as a condition to and a consequence of the same, hereby waive, repeal and amend any limitations in the former Constitution on so doing, including but not limited to in subdivision (d) of Section 8 of Article II, and Article XVII:

SECTION THREE. TEXT OF AMENDED CONSTITUTION

[Additions are shown in underline and deletions in ~~gray strike-through~~. Explanatory comments are [bracketed and italicized] but not underlined, and do not constitute a part of this Constitution.]

[The adoption of this Constitution is subject to the transitional provisions which follow the last Article hereof.]

CALIFORNIA CONSTITUTION

ARTICLE I DECLARATION OF RIGHTS

SECTION 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

SECTION 2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

[The provisions of former subdivision (b) below are consolidated into a single paragraph.]

(b) ~~No current or former publisher, producer, editor, reporter, or other person undertaking similar work or services connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt or guilty of any other civil or criminal offense by any judicial, legislative, or administrative or other governmental body, or any other body having the power to~~

~~issue subpoenas, for refusing to disclose the source of any information or the source thereof procured—obtained or developed while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for the purpose of communication to the public through written, electronic or other media.~~

~~Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.~~

~~As used in this subdivision, "unpublished information" includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated.~~

SECTION 3. (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) ~~(1)~~ The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny as further provided by law. The Legislature may enact exemptions to the requirements set forth in this subdivision only to further a compelling public purpose.

[The former paragraphs of this subdivision (b) below are addressed by the preceding paragraph and by other provisions of this Article.]

~~(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~(3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.~~

~~(4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that a person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided in Section 7.~~

~~(5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.~~

~~(6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions; nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.~~

SECTION 4. Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion. A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs.

SECTION 5. The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, or in peacetime without the owner's consent.

SECTION 6. Slavery is prohibited. Involuntary servitude is prohibited except to punish crime.

SECTION 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; ~~provided, that~~

~~(b) Nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any local government or public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this State may impose upon the State of California or any local government or public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to~~

remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

[The former paragraphs of this Section 7 below are inoperative or are no longer necessary.]

~~Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this State, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.~~

~~In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979-80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.~~

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the original effective date of this subdivision as amended.

~~In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this State and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.~~

(bc) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked.

SECTION 7.5. Only marriage between a man and a woman is valid or recognized in California.

SECTION 8. A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin.

SECTION 9. A bill of attainder, *ex post facto* law, or law impairing the obligation of contracts may not be passed.

SECTION 10. Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine.

SECTION 11. Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion.

SECTION 12. A person shall be released on bail by sufficient sureties, except for:

- (a) Capital crimes when the facts are evident or the presumption great;
- (b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or
- (c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

A person may be released on his or her own recognizance in the court's discretion.

SECTION 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SECTION 14. Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information. A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant. On the defendant's request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant. A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.

~~SECTION 14.1.~~ If a felony is prosecuted by indictment, there shall be no post-indictment preliminary hearing.

SECTION 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with

the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.

Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law.

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

In civil causes the jury shall consist of ~~12~~ twelve persons or a lesser number agreed on by the parties in open court. In civil causes other than causes within the appellate jurisdiction of the court of appeal the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

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

SECTION 17. Cruel or unusual punishment may not be inflicted or excessive fines imposed.

SECTION 18. Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court.

SECTION 19. (a) Private property may be taken or damaged for a public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) The State and local governments are prohibited from acquiring by eminent domain any ~~owner-occupied single family residence~~ needwelling, occupied for at least one year by an owner or owners as a principal residence, for the purpose of conveying ~~it~~ such property or any interest therein to a private person party.

(c) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of protecting public health and safety; preventing serious, repeated criminal activity; responding to an emergency; or remedying environmental contamination that poses a threat to public health and safety.

(d) Subdivision (b) of this section does not apply when State or local government exercises the power of eminent domain for the purpose of acquiring private property for a public work ~~capital or~~ improvement.

(e) ~~For the all purposes of this section~~ Constitution, "State" means (1) all departments, agencies, divisions, boards, bureaus, authorities, commissions, offices and other similar units of State government, or (2) the territory encompassed by the State of California, as appropriate.

(f) For all purposes of this Constitution, "local government" means any county, city, city and county, school district, special district, redevelopment agency, or any other political subdivision or regional or local governmental entity within the State.

[The former definitions in this Section 19 below are addressed by the subdivisions above, including by the revisions to subdivision (b).]

1. ~~"Conveyance" means a transfer of real property whether by sale, lease, gift, franchise, or otherwise.~~

2. ~~"Local government" means any city, including a charter city, county, city and county, school district, special district, authority, regional entity, redevelopment agency, or any other political subdivision within the State.~~

3. ~~"Owner-occupied residence" means real property that is improved with a single-family residence such as a detached home, condominium, or townhouse and that is the owner or owners' principal place of residence for at least one year prior to the State or local government's initial written offer to purchase the property. Owner-occupied residence also includes a residential dwelling unit attached to or detached from such a single-family residence which provides complete independent living facilities for one or more persons.~~

4. ~~"Person" means any individual or association, or any business entity, including, but not limited to, a partnership, corporation, or limited liability company.~~

5. ~~"Public work or improvement" means facilities or infrastructure for the delivery of public services such as education, police, fire protection, parks, recreation, emergency medical, public health, libraries, flood protection, streets or highways, public transit, railroad, airports and seaports; utility, common carrier or other similar projects such as energy-related, communication-related, water-related and wastewater-related facilities or infrastructure; projects identified by a State or local government for recovery from natural disasters; and private uses incidental to, or necessary for, the public work or improvement.~~

6. ~~"State" means the State of California and any of its agencies or departments.~~

SECTION 20. Non-citizens have the same property rights as citizens.

SECTION 21. Property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property.

SECTION 22. The right to vote or hold office may not be conditioned by a property qualification.

SECTION 23. One or more grand juries shall be drawn and summoned at least once a year in each county.

SECTION 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this State in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people.

SECTION 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.

SECTION 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SECTION 27. All statutes of this State in effect on February 17, 1972, requiring, authorizing, imposing, or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative, or referendum.

The death penalty provided for under those statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments within the meaning of Article I,

Section ~~6-17~~ nor shall such punishment for such offenses be deemed to contravene any other provision of this eConstitution.

SECTION 28. A victim of crime in this State and her or his family have the right to be treated with fairness and respect for their privacy and dignity, and to be free from intimidation, harassment and abuse throughout the criminal and juvenile justice process.

[The former provisions of this Section 28 below together with former Sections 29 and 30 are enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

~~(a) The People of the State of California find and declare all of the following: (1) Criminal activity has a serious impact on the citizens of California. The rights of victims of crime and their families in criminal prosecutions are a subject of grave statewide concern.~~

~~(2) Victims of crime are entitled to have the criminal justice system view criminal acts as serious threats to the safety and welfare of the people of California. The enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system fully protecting those rights and ensuring that crime victims are treated with respect and dignity, is a matter of high public importance. California's victims of crime are largely dependent upon the proper functioning of government, upon the criminal justice system and upon the expeditious enforcement of the rights of victims of crime described herein, in order to protect the public safety and to secure justice when the public safety has been compromised by criminal activity.~~

~~(3) The rights of victims pervade the criminal justice system. These rights include personally held and enforceable rights described in paragraphs (1) through (17) of subdivision (b).~~

~~(4) The rights of victims also include broader shared collective rights that are held in common with all of the People of the State of California and that are enforceable through the enactment of laws and through good faith efforts and actions of California's elected, appointed, and publicly employed officials. These rights encompass the expectation shared with all of the people of California that persons who commit felonious acts causing injury to innocent victims will be appropriately and thoroughly investigated, appropriately detained in custody, brought before the courts of California even if arrested outside the State, tried by the courts in a timely manner, sentenced, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.~~

~~(5) Victims of crime have a collectively shared right to expect that persons convicted of committing criminal acts are sufficiently punished in both the manner and the length of the sentences imposed by the courts of the State of California. This right includes the right to expect that the punitive and~~

~~deterrent effect of custodial sentences imposed by the courts will not be undercut or diminished by the granting of rights and privileges to prisoners that are not required by any provision of the United States Constitution or by the laws of this State to be granted to any person incarcerated in a penal or other custodial facility in this State as a punishment or correction for the commission of a crime.~~

~~(6) Victims of crime are entitled to finality in their criminal cases. Lengthy appeals and other post-judgment proceedings that challenge criminal convictions, frequent and difficult parole hearings that threaten to release criminal offenders, and the ongoing threat that the sentences of criminal wrongdoers will be reduced, prolong the suffering of crime victims for many years after the crimes themselves have been perpetrated. This prolonged suffering of crime victims and their families must come to an end.~~

~~(7) Finally, the People find and declare that the right to public safety extends to public and private primary, elementary, junior-high, and senior-high school, and community college, California State University, University of California, and private college and university campuses, where students and staff have the right to be safe and secure in their persons.~~

~~(8) To accomplish the goals it is necessary that the laws of California relating to the criminal justice process be amended in order to protect the legitimate rights of victims of crime.~~

~~(b) In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:~~

~~(1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.~~

~~(2) To be reasonably protected from the defendant and persons acting on behalf of the defendant.~~

~~(3) To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.~~

~~(4) To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.~~

~~(5) To refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant,~~

~~and to set reasonable conditions on the conduct of any such interview to which the victim consents.~~

~~(6) To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.~~

~~(7) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post conviction release proceedings, and to be present at all such proceedings.~~

~~(8) To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post conviction release decision, or any proceeding in which a right of the victim is at issue.~~

~~(9) To a speedy trial and a prompt and final conclusion of the case and any related post judgment proceedings.~~

~~(10) To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.~~

~~(11) To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.~~

~~(12) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.~~

~~(13) To restitution.~~

~~(A) It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.~~

~~(B) Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.~~

~~(C) All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.~~

~~(14) To the prompt return of property when no longer needed as evidence.~~

~~(15) To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.~~

~~(16) To have the safety of the victim, the victim's family, and the general public considered before any parole or other post judgment release decision is made.~~

~~(17) To be informed of the rights enumerated in paragraphs (1) through (16).~~

~~(c) (1) A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.~~

~~(2) This section does not create any cause of action for compensation or damages against the State, any political subdivision of the State, any officer, employee, or agent of the State or of any of its political subdivisions, or any officer or employee of the court.~~

~~(d) The granting of these rights to victims shall not be construed to deny or disparage other rights possessed by victims. The court in its discretion may extend the right to be heard at sentencing to any person harmed by the defendant. The parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.~~

~~(e) As used in this section, a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term "victim" also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term "victim" does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim.~~

~~(f) In addition to the enumerated rights provided in subdivision (b) that are personally enforceable by victims as provided in subdivision (c), victims of crime have additional rights that are shared with all of the People of the State of California. These collectively held rights include, but are not limited to, the following:~~

~~(1) Right to Safe Schools. All students and staff of public primary, elementary, junior high, and senior high schools, and community colleges, colleges, and universities have the inalienable right to attend campuses which are safe, secure and peaceful.~~

~~(2) Right to Truth in Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and postconviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code Sections 352, 782 or 1103. Nothing in this section shall affect any existing statutory or constitutional right of the press.~~

~~(3) Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations. A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail. Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney and the victim shall be given notice and reasonable opportunity to be heard on the matter. When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.~~

~~(4) Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.~~

~~(5) Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities. The legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences, except for statutorily authorized credits which reduce those sentences.~~

~~(6) Reform of the parole process. The current process for parole hearings is excessive, especially in cases in which the defendant has been convicted of murder. The parole hearing process must be reformed for the benefit of crime victims.~~

~~(g) As used in this article, the term "serious felony" is any crime defined in subdivision (c) of Section 1192.7 of the Penal Code, or any successor statute.~~

~~SECTION 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial.~~

~~SECTION 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.~~

~~(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.~~

~~(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process.~~

~~SECTION 31~~29. (a) The State and local governments shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's original effective date.

(c) Nothing in this Section shall be interpreted as prohibiting *bona fide* qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the original effective date of this section.

(e) Nothing in this Section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.

(f) For the purposes of this section, "State" shall include, in addition, ~~but not necessarily be limited to, the State itself, any city, county, city and county, public university system, State institutions of higher education, including the University of California and California State Universities, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.~~

~~(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.~~

~~(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.~~

ARTICLE II VOTING, INITIATIVE AND REFERENDUM, AND RECALL

SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

SECTION 2. A United States citizen 18 years of age and resident in this State may vote.

~~SECTION 2.5.~~ A voter who casts a vote in an election in accordance with the laws of this State shall have that vote counted.

SECTION 3. The Legislature shall define residence and provide for registration and free elections.

SECTION 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.

SECTION 5. (a) The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

(b) A political party that participated in a primary election for a partisan office has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates.

SECTION 6. (a) All judicial, school district, county, and city, city and county and special district offices shall be nonpartisan.

(b) No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office.

SECTION 7. Voting shall be secret.

SECTION 8. (a) The initiative is the power of the electors to propose statutes and amendments to ~~the~~this Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to ~~the~~this Constitution and is certified to have been signed by electors equal in number to ~~5~~five percent in the case of a statute, and ~~8~~ten percent in the case of an amendment to ~~the~~this Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not hereafter be submitted to the electors or have any effect.

(e) An initiative measure may not include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(f) An initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

SECTION 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to ~~5~~five percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

SECTION 10. (a) Except as otherwise provided in this Constitution,

(1) An initiative statute approved by 60 percent of the voters voting on the proposition, given its greater protection from subsequent amendment, including any fiscal reforms enacted pursuant thereto;

(2) era referendum approved by a majority of the voters voting on the proposition; ~~of votes thereon and~~

(3) an initiative amendment to this Constitution approved by two-thirds of the voters voting on the proposition, given the importance of preserving our rights under and the integrity of this Constitution, including the fiscal provisions hereof;

in each case takes effect the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder shall not be delayed from going into effect.

(b) If provisions of ~~2~~two or more measures approved at the same election conflict, ~~those of~~ the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by 60 percent of the electors unless the initiative statute permits amendment or repeal without ~~their~~voter approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors.

SECTION 11. (a) Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. Except as provided in subdivisions (b) and (c), this Section does not affect a city having a charter.

(b) A city or county initiative measure may not include or exclude any part of the city or county from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city or county or any part thereof.

(c) A city or county initiative measure may not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

SECTION 12. No amendment to ~~the~~this Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual to hold any office, or names or

identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect.

SECTION 13. Recall is the power of the electors to remove an elective officer.

SECTION 14. (a) Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to ~~12~~ twelve percent of the last vote for the office, with signatures from each of ~~5~~ five counties equal in number to ~~1~~ one percent of the last vote for the office in the county. Signatures to recall Senators, members of the Assembly, and members of the Board of Equalization, ~~and judges of courts of appeal and trial courts~~ must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office.

SECTION 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, ~~nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.~~

SECTION 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

SECTION 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.

SECTION 18. A state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election.

SECTION 19. The Legislature shall provide for recall of local officers. This Section does not affect counties and cities whose charters provide for recall.

SECTION 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires.

ARTICLE III STATE OF CALIFORNIA

SECTION 1. The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.

SECTION 2. The boundaries of the State are those stated in the Constitution of 1849 as modified pursuant to statute. Sacramento is the capital of California.

SECTION 3. (a) The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

[The former provisions of Section 3.5 below are consolidated into new subdivision (b) of this Section 3.]

~~SECTION 3.5.(b) The power to determine whether a statute is unconstitutional or otherwise unlawful shall reside with the federal and State courts, and not with any administrative agency of the State, including an administrative agency created by the Constitution or an initiative statute, has no power:~~

~~(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;~~

~~(b) To declare a statute unconstitutional;~~

~~(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations.~~

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

[The provisions of former subdivision (b) below are outdated or are no longer necessary, including as a result of new Section 7.]

~~(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting~~

~~the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law.~~

SECTION 5. Suits may be brought against the State in such manner and in such courts as shall be directed provided by law.

[The former provisions of Section 6 below are addressed by the remaining provisions of Section 6 or are no longer necessary.]

SECTION 6. (a) — ~~Purpose. English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.~~

(b) — ~~English as the Official Language of California. English is the official language of the State of California.~~

(c) — ~~Enforcement. The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.~~

(d) ~~Personal Right of Action and Jurisdiction of Courts. Any person who is a resident of or doing business in this State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section.~~

[The provisions of former Section 7 below are outdated or are addressed by new Section 7.]

SEC. 7. (a) ~~The retirement allowance for any person, all of whose credited service in the Legislators' Retirement System was rendered or was deemed to have been rendered as an elective officer of the State whose office is provided for by the California Constitution, other than a judge and other than a Member of the Senate or Assembly, and all or any part of whose retirement allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement, or for the survivor or beneficiary of such a person, shall not be increased or affected in any manner by changes on or after November 5, 1986, in the compensation payable to the officer holding the office which the member last held prior to retirement.~~

(b) ~~This section shall apply to any person, survivor, or beneficiary described in subdivision (a) who receives, or is receiving, from the Legislators' Retirement System a retirement allowance on or after November 5, 1986, all or any part of which allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement.~~

~~(c) It is the intent of the people, in adopting this section, to restrict retirement allowances to amounts reasonably to be expected by certain members and retired members of the Legislators' Retirement System and to preserve the basic character of earned retirement benefits while prohibiting windfalls and unforeseen advantages which have no relation to the real theory and objective of a sound retirement system. It is not the intent of this section to deny any member, retired member, survivor, or beneficiary a reasonable retirement allowance. Thus, this section shall not be construed as a repudiation of a debt nor the impairment of a contract for a substantial and reasonable retirement allowance from the Legislators' Retirement System.~~

~~(d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in subdivision (a) which would otherwise result when the compensation for those offices increases on November 5, 1986, or January 5, 1987, are not benefits which could have reasonably been expected. The people and the Legislature further find and declare that the Legislature did not intend to provide in its scheme of compensation for those offices such windfall benefits.~~

[The provisions of subdivision (a) of former Section 8 below are revised to cover judges of courts of record so that all State legislative, executive and judicial officials who are elected or approved by the voters are subject to this Section's compensation provisions.]

SECTION 87. (a) The California Citizens Compensation Commission is hereby created and shall consist of seven members appointed by the Governor. The commission shall establish (1) the annual salary and the medical, dental, insurance, and other similar compensation and benefits of state officers, Members of the Legislature, and judges of courts of record; and (2) their allowances for and rules for reimbursement of travel and living expenses while away from home in the performance of their official duties.

(b) "State officer" for all purposes of this Constitution means the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer and members of the State Board of Equalization. ~~The commission shall consist of the following persons:~~

[The provisions of former Section 8 below, amended as set forth below, are enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

[Amendment additions are *underlined and italicized*, and amendment deletions are *bracketed and italicized*.]

~~(1) Three public members, one of whom has expertise in the area of compensation, such as an economist, market researcher, or personnel manager; one of whom is a member of a nonprofit public interest organization; and one of whom is representative of the general population and may include, among others, a retiree, homemaker, or person of median income. No person appointed pursuant to this paragraph may, during the 12~~

months prior to his or her appointment, have held public office, either elective or appointive, have been a candidate for elective public office, or have been a lobbyist, as defined by the Political Reform Act of 1974.

(2) ~~Two members who have experience in the business community, one of whom is an executive of a corporation incorporated in this State which ranks among the largest private sector employers in the State based on the number of employees employed by the corporation in this State and one of whom is an owner of a small business in this State.~~

(3) ~~Two members, each of whom is an officer or member of a labor organization.~~

(c) ~~The Governor shall strive insofar as practicable to provide a balanced representation of the geographic, gender, racial, and ethnic diversity of the State in appointing commission members.~~

(d) ~~The Governor shall appoint commission members and designate a chairperson for the commission not later than 30 days after the effective date of this section. The terms of two of the initial appointees shall expire on December 31, 1992, two on December 31, 1994, and three on December 31, 1996, as determined by the Governor. Thereafter, the term of each member shall be six years. Within 15 days of any vacancy, the Governor shall appoint a person to serve the unexpired portion of the term.~~

(e) ~~No current or former officer or employee of this State is eligible for appointment to the commission.~~

(f) ~~Public notice shall be given of all meetings of the commission, and the meetings shall be open to the public.~~

(g) ~~On or before December 3, 1990, the commission shall, by a single resolution adopted by a majority of the membership of the commission, establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in that resolution shall be effective on and after December 3, 1990.~~

~~Thereafter, at or before the end of each fiscal [year]period, the commission shall, by a resolution adopted by a majority of the membership of the commission, adjust the medical, dental, insurance, and other similar benefits of state officers, members of the State Legislature and judges of courts of record. The benefits specified in the resolution shall be effective on and after the first Monday of the next December.~~

~~Thereafter, at or before the end of each fiscal [year]period, the commission shall adjust the annual salary of state officers, members of the State Legislature and judges of courts of record by a resolution adopted by a majority of the membership of the commission. The annual salary specified in the resolution shall be effective on and after the first Monday of the next December, except that a resolution shall not be~~

~~adopted or take effect in any year that increases the annual salary of any state officer, member of the State Legislature or judge of a court of record if, on or before the immediately preceding June 1, the Director of Finance certifies to the commission, based on estimates for the current fiscal [year]period, [that there will be a negative balance on June 30 of the current fiscal year in the Special Fund for Economic Uncertainties in an amount equal to, or greater than, 1 percent of estimated General Fund revenues]that the State likely will have to draw upon the Budget Stabilization Account during the upcoming fiscal period.~~

~~(h) In establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits, the commission shall consider all of the following:~~

~~(1) The amount of time directly or indirectly related to the performance of the duties, functions, and services of a state officer, member of the State Legislature or judge of a court of record.~~

~~(2) The amount of the annual salary and the medical, dental, insurance, and other similar benefits for other elected and appointed officers and officials in this State with comparable responsibilities, the judiciary, and, to the extent practicable, the private sector [recognizing, however, that state officers do not receive, and do not expect to receive, compensation at the same levels as individuals in the private sector with comparable experience and responsibilities].~~

~~(3) The responsibility and scope of authority of the entity in which the state officer, member of the State Legislature or judge of a court of record serves.~~

~~(4) Whether the Director of Finance estimates that [there will be a negative balance in the Special Fund for Economic Uncertainties in an amount equal to or greater than 1 percent of estimated General Fund revenues in the current fiscal year]the State likely will have to draw upon the Budget Stabilization Account during the upcoming fiscal period.~~

~~(i) Until a resolution establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits for state officers, members of the State Legislature and judges of courts of record takes effect, each state officer, member of the State Legislature and judge of a court of record shall continue to receive the same annual salary and the medical, dental, insurance, and other similar benefits received previously.~~

~~(j) All commission members shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member shall be compensated at the same rate as members, other than the chairperson, of the Fair Political Practices Commission, or its successor, for each day engaged in official duties, not to exceed 45 days per year.~~

~~(k) It is the intent of the Legislature that the creation of the commission should not generate new state costs for staff and services. The Department of Personnel~~

~~Administration, the Board of Administration of the Public Employees' Retirement System, or other appropriate agencies, or their successors, shall furnish, from existing resources, staff and services to the commission as needed for the performance of its duties.~~

~~(l) "State officer," as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, [Superintendent of Public Instruction,] Treasurer, member of the State Board of Equalization, and Member of the Legislature.~~

[The provisions of former Section 9 below are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 9. The proceeds from the sale of surplus state property occurring on or after the effective date of this section, and any proceeds from the previous sale of surplus state property that have not been expended or encumbered as of that date, shall be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act authorized at the March 2, 2004, statewide primary election. Once the principal and interest on those bonds are fully paid, the proceeds from the sale of surplus state property shall be deposited into the Special Fund for Economic Uncertainties, or any successor fund. For purposes of this section, surplus state property does not include property purchased with revenues described in Article XIX or any other special fund money~~

ARTICLE IV LEGISLATIVE

~~SECTION 1. The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum as set forth in this Constitution.~~

[The provisions of former Section 1.5 below have no operative effect or are no longer necessary.]

~~SECTION 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative. The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent. To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served.~~

SECTION 2. (a) The Senate has a membership of 40 Senators elected for ~~4~~^{four}-year terms, 20 to begin every ~~2~~^{two} years. No Senator may serve more than ~~2~~^{three} terms. The Assembly has a membership of 80 members elected for ~~2~~^{two}-year terms. No member of the Assembly may serve more than ~~3~~^{five} terms. Their terms shall commence on the first Monday in December next following their election.

No person shall be eligible for election to the Legislature who, as of the commencement of such term, shall have been a member of the houses of the Legislature for 16 years.

The people of the State understand and intend that the term limits in this subdivision impose a lifetime ban from these respective public offices on individuals who exceed such limits. These limits are intended to protect the people from an entrenched Legislature while providing for more experienced and effective representatives capable of protecting and advancing the public interest and the common good, including in particular the fiscal health and prosperity of this State.

(b) Election of members of the Senate and the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for ~~3~~^{three} years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.

SECTION 3. (a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn *sine die* by operation of ~~the~~^{this} Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session.

SECTION 4. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no Member of the Legislature may knowingly receive any salary, wages, commissions, or other ~~similar earned income~~^{compensation} from a lobbyist or lobbying firm, ~~as defined by the Political Reform Act of 1974,~~ or from a person who, during the previous ~~12~~^{twelve} months, ~~has been~~^{was} under a contract with the Legislature. ~~The Legislature shall enact laws that define earned income. However, earned income~~ Compensation does not include any community property interest in the income of a spouse. Any Member who knowingly receives any salary, wages, commissions, or other ~~similar earned income~~^{compensation} from a lobbyist employer, ~~as defined by the Political Reform~~

Act of 1974, may ~~shall~~ not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 123 of this Article, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession.

[The provisions of the former subdivisions of this Section 4 below are addressed by new Section 7 of Article III.]

~~(b) — Travel and living expenses for Members of the Legislature in connection with their official duties shall be prescribed by statute passed by rollcall vote entered in the journal, two thirds of the membership of each house concurring. A Member may not receive travel and living expenses during the times that the Legislature is in recess for more than three calendar days, unless the Member is traveling to or from, or is in attendance at, any meeting of a committee of which he or she is a member, or a meeting, conference, or other legislative function or responsibility as authorized by the rules of the house of which he or she is a member, which is held at a location at least 20 miles from his or her place of residence.~~

~~(c) — The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of five hundred dollars (\$500) paid to any Member of the Legislature unless the Member receives the greater amount while serving as a Member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to Members of the Legislature who serve during or after the term commencing in 1967.~~

~~When computing the retirement allowance of a Member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the Member. However, the Legislature may provide that no Member shall be deprived of a cost of living adjustment based on a monthly salary of five hundred dollars (\$500) which has accrued prior to the commencement of the 1967 Regular Session of the Legislature.~~

[The provisions of former Section 4.5 below are addressed by new Section 7 of Article III.]

~~SECTION 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon~~

~~adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided.~~

SECTION 5. (a) Each house shall judge the qualifications and elections of its Members and, by rollcall vote entered in the journal, two thirds of the membership concurring, may expel a Member.

(b) No Member of the Legislature may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a Member of the Legislature from any source if the acceptance of the gift might create a conflict of interest.

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 123 of this Article, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or ~~the~~ ~~W~~workers' ~~C~~compensation ~~A~~appeals ~~B~~board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, ~~less any~~ expenses attributable to that fee, resulting from that action.

(e) The Legislature shall enact laws that prohibit a Member of the Legislature whose term of office commences on or after December 3, 1990, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for ~~12~~ twelve months after leaving office.

~~(f) The Legislature shall enact new laws, and strengthen the enforcement of existing laws, prohibiting Members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities. However, the people reserve to themselves the power to implement this requirement pursuant to Article II.~~

[The provisions of former Section 7.5 below made the Legislature more dependent upon lobbyists and special interests for information and analyses regarding proposed legislation.]

~~SECTION 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars (\$950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the State established pursuant to Article XIII-B.~~

SECTION 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on ~~3~~ three days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

(e) To discourage unnecessary, inadequately considered and fiscally irresponsible legislation, bills may only be introduced in the first calendar year of each biennium of the legislative session, but may be amended thereafter so long as the principal subject of the bill is not changed. This subdivision (e) shall not apply to (1) statutes calling elections; (2) statutes providing for tax levies or appropriations for the usual current expenses of the State, including the budget bill; (3) urgency statutes; (4) statutes to repeal existing laws; and (5) statutes which reduce or eliminate programs, functions or services.

(f) All State statutes, codes and regulations shall be available for publication by any person.

SECTION 89.5. An act amending an initiative statute, an act providing for the issuance of bonds, or a constitutional amendment proposed by the Legislature and submitted to the voters for approval may not do either of the following:

(a) Include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.

(b) Contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.

SECTION 910. A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended.

SECTION 101. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the

Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within ~~12~~ twelve days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within ~~12~~ twelve days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the ~~12th~~ twelfth day of the period within which the Governor is required to perform an act pursuant to subdivision (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) ~~If, following the enactment of the budget bill for the 2004-05 fiscal year or any subsequent fiscal year, the Governor determines that, for that any fiscal year period,~~ General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year period, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the

nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect.

SECTION 14~~2~~. (a) The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control.

(b) Each house of the Legislature shall establish and maintain:

(1) A separate committee responsible only for the review and evaluation of the effectiveness and efficiency of State programs, functions and services and for the development of legislation to improve their effectiveness and efficiency or to reduce or eliminate them; and

(2) A separate committee responsible only for the review and evaluation of the need for and desirability of existing laws and their corresponding regulations, and for the development of legislation to amend or repeal such laws, including but not limited to laws which: (A) are outdated, unnecessary, superseded, conflicting, confusing, redundant or unduly long; or (B) benefit special interests at the expense of the common good.

SECTION 12~~3~~. (a) Within the first ~~10~~ ten days of ~~each the~~ calendar year preceding the next fiscal period, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year period containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures.

(2) The budget bill shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) The Legislature shall pass the budget bill by midnight on June 15 prior to ~~of each year~~ the next fiscal period. If the budget bill is not passed by such time, no Member of the Legislature shall be paid her or his compensation or any allowance for or reimbursement of their travel or living expenses until the budget bill is passed and delivered to the Governor.

(4) Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year period for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and ~~that~~ only for one certain, the expressed purpose of such bill. Appropriations from the General Fund of the State, ~~except appropriations for the public schools,~~ are void unless passed in each house by rollcall vote entered in the journal, ~~two-thirds of the membership concurring.~~

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) ~~For the 2004-05 fiscal year, or any subsequent fiscal year,~~ The Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year period, a total amount that, when combined with all appropriations from the General Fund for that fiscal year period made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year period pursuant to Section 2011 of Article XVI, exceeds General Fund revenues for that fiscal year period estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

SECTION 134. A member of the Legislature may not, during the term for which the member is elected, hold any office or employment under the State other than an elective office.

SECTION 145. A member of the Legislature is not subject to civil process during a session of the Legislature or for ~~5~~ five days before and after a session.

SECTION 156. A person who seeks to influence the vote or action of a member of the Legislature in the member's legislative capacity by bribery, promise of reward, intimidation, or other dishonest means, or a member of the Legislature so influenced, is guilty of a felony.

SECTION 167. (a) All laws of a general nature shall have uniform operation.

(b) A local or special statute is invalid ~~in any case if a general statute can be made applicable~~ unless necessary to further a compelling public purpose.

[The provisions of former Section 17 below are addressed by subdivision (a) of Section 10 of new Article IX.]

~~SECTION 17. The Legislature has no power to grant, or to authorize a city, county, or other public body to grant, extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or to authorize the payment of a claim against the State or a city, county, or other public body under an agreement made without authority of law.~~

SECTION 18. The Legislature has no power at any time to (a) borrow, or (b) defer, divert, delay, condition, suspend, reduce or redirect, or (c) otherwise interfere with the timely payment, application or use of, tax or other revenues of the State or of local governments to or for any purposes other than those provided by this Constitution.

SECTION 18~~9~~9. (a) The Assembly has the sole power of impeachment. Impeachments shall be tried by the Senate. A person may not be convicted unless, by rollcall vote entered in the journal, two thirds of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Judgment may extend only to removal from office and disqualification to hold any office under the State, but the person convicted or acquitted remains subject to criminal punishment according to law.

SECTION 19~~20~~20. (a) The Legislature has no power to authorize lotteries, and shall prohibit, the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), ~~therethe State is authorized to conduct a State lottery with the approval after the date of adoption of this Constitution of 60 percent of the voters voting on the proposition.~~ the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, gambling casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), ~~and any other provision of state law,~~ the Governor is authorized, with the approval after the date of adoption of this Constitution of 60 percent of the voters voting on the proposition, to negotiate and conclude new compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes. Any such new gambling facilities shall be located on federally-designated Indian lands in California, in accordance with

~~federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.~~

(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

SECTION 201. The Legislature shall have no power to: (a) establish a new State program, function or service, or (b) increase or expand an existing program, function or service, or (c) make any appropriations for such new, increased or expanded program, function or service, in each case which is reasonably projected by the Controller to cost more than \$25 million in any fiscal period (such amount to be adjusted each fiscal period in proportion to changes in the cost of living in the State) without providing: (1) a new, increased or expanded source of State revenues, or (2) a reduction in other State programs, functions or services and their related appropriations, sufficient in the aggregate to pay the ongoing costs of such new, increased or expanded program, function or service.

[The former Section 20 below is enacted into law and thereby preserved.]

~~(a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.~~

~~(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6 year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring.~~

SECTION 242. The Legislature shall apply State revenues which by their nature are non-recurring, as reasonably determined by the Controller, to one-time expenditures, including but not limited to retiring bonds, transfer to the Budget Stabilization Account, funding capital costs, or deposit to a pension or retirement fund, and not to ongoing programs, functions or services.

SECTION 23. To meet the needs resulting from war-caused or enemy-caused disaster in California, the Legislature may provide for:

- (a) Filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.
- (b) Filling the office of Governor should the Governor be killed, missing, or disabled, until the Governor or the successor designated in this Constitution is able to perform the duties of the office of Governor or a successor is elected.
- (c) Convening the Legislature.
- (d) Holding elections to fill offices that are elective under this Constitution and that are either vacant or occupied by persons not elected thereto.
- (e) Selecting a temporary seat of state or county government.

[The provisions of former Section 22 below have no practical effect and are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 22. It is the right of the people to hold their legislators accountable. To assist the people in exercising this right, at the convening of each regular session of the Legislature, the President pro Tempore of the Senate, the Speaker of the Assembly, and the minority leader of each house shall report to their house the goals and objectives of that house during that session and, at the close of each regular session, the progress made toward meeting those goals and objectives.~~

[The provisions of former Section 28 below are outdated and have no practical effect.]

~~SECTION 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either~~

~~(1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or~~

~~(2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators' chairs and desks in the Senate and Assembly Chambers.~~

~~(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.~~

~~(c) This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture.~~

ARTICLE V EXECUTIVE

SECTION 1. The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed.

SECTION 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for ~~5~~five years immediately preceding the Governor's election. The Governor may not hold other public office. No Governor may serve more than ~~2~~two terms.

SECTION 3. The Governor shall report to the Legislature each calendar year on the condition of the State and may make recommendations to the Legislature regarding changes to the laws of the State.

SECTION 4. The Governor may require executive officers and agencies and their employees to furnish information relating to their duties.

SECTION 5. (a) ~~Unless the law otherwise provides~~Except as otherwise provided by this Constitution or by law, the Governor may fill a vacancy in office by appointment until a successor qualifies.

(b) Whenever there is a vacancy in the office of the ~~Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization,~~ the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of ~~the membership of the Senate and a majority of the membership of the Assembly~~each house of the Legislature and who shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes.

SECTION 6. ~~Authority may be provided by statute for~~The Governor to ~~may~~ assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers.

SECTION 7. The Governor is commander in chief of a militia that shall be provided by statute. The Governor may call it forth to execute the law.

SECTION 8. (a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve, pardon, and commutation,

after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, ~~4~~four judges concurring.

(b) No decision of the parole authority of this State with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action.

SECTION 9. The Lieutenant Governor shall have the same qualifications as the Governor. The Lieutenant Governor is President of the Senate but has only a casting vote.

SECTION 10. The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor. The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office. The Legislature shall provide an order of precedence after the Lieutenant Governor for succession to the office of Governor and for the temporary exercise of the Governor's functions.

The Supreme Court has exclusive jurisdiction to determine all questions arising under this Section. Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute.

SECTION 11. (a) The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. Candidates for Governor and Lieutenant Governor shall run for and be elected to office on the same ticket. No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than ~~2~~two terms.

(b) The people of the State understand and intend that the term limits in this Article impose a lifetime ban from the respective public offices on individuals who exceed such limits.

SECTION 12. (a) Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in

the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office.

(b) The Controller shall be the chief fiscal officer of the State, and shall be responsible for the receipt, accounting and disbursement of State moneys, and the audit of State, local government and University of California programs, functions, finances and services, and such other matters, as further provided by law.

(c) The Treasurer shall be the chief investment officer of the State, and shall be responsible for the management and investment of State moneys and local government moneys entrusted to the Treasurer, the issuance of State of California bonds, and such other matters, as further provided by law.

(d) The Secretary of State shall be the chief elections and records officer of the State, and shall be responsible for the conduct of State-wide elections, the custody of State records, the registration of and related filings by corporations and other businesses, and such other matters, as further provided by law.

SECTION 13. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no state officer may knowingly receive any salary, wages, commissions, or other ~~similar earned income~~ compensation from a lobbyist, ~~or~~ lobbying firm, ~~as defined by the Political Reform Act of 1974,~~ or from a person who, during the previous ~~12~~ twelve months, ~~has been~~ was under a contract with the state agency under the jurisdiction of the state officer. ~~The Legislature shall enact laws that define earned income. However, earned income~~ Compensation does not include any community property interest in the income of a spouse. Any state officer who knowingly receives any salary, wages, commissions, or other ~~similar earned income~~ compensation from a lobbyist employer, ~~as defined by the Political Reform Act of 1974,~~ may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 123 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession.

(b) No state officer may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a state officer from any source if the acceptance of the gift might create a conflict of interest.

(d) No state officer may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a state officer knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the state officer may not, for a period of one year following the acceptance of the compensation, make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the state agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 123 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession. However, a state officer may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the state officer is a member if the state officer does not share directly or indirectly in the fee, ~~less any expenses attributable to that fee,~~ resulting from that action.

(ed) The Legislature shall enact laws that prohibit a state officer, or a secretary of an agency or director of a department appointed by the Governor, ~~who has not resigned or retired from state service prior to January 7, 1991,~~ from lobbying, for compensation, ~~as governed by the Political Reform Act of 1974,~~ before the executive branch of state government for ~~12~~ twelve months after leaving office.

~~(f) "State officer," as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, and member of the State Board of Equalization.~~

ARTICLE VI JUDICIAL

SECTION 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are courts of record.

SECTION 2. The Supreme Court consists of the Chief Justice of California and ~~6~~ six associate justices. The Chief Justice may convene the court at any time. Concurrence of ~~4~~ four judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when the Chief Justice is absent or unable to act. The Chief Justice or, if the Chief Justice fails to do so, the court shall select an associate justice as acting Chief Justice.

SECTION 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and ~~2~~two or more associate justices. It has the power of a court of appeal and shall conduct itself as a ~~3~~three-judge court. Concurrence of ~~2~~two judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when the presiding justice is absent or unable to act. The presiding justice or, if the presiding justice fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice.

SECTION 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division.

SECTION ~~6~~5. (a) The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, three judges of courts of appeal, ~~10~~ten judges of superior courts, two nonvoting court administrators, and any other nonvoting members as determined by the voting membership of the council, each appointed by the Chief Justice for a three-year term pursuant to procedures established by the council; four members of the State Bar appointed by its governing body for three-year terms; and one member of each house of the Legislature appointed as provided by the house.

(b) Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

(c) The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

(d) To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute. The rules adopted shall not be inconsistent with statute.

(e) The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

(f) Judges shall report to the council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned.

SECTION 76. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are ~~2~~two or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal.

SECTION 87. (a) The Commission on Judicial Performance consists of one judge of a court of appeal and two judges of superior courts, each appointed by the Supreme Court; two members of the State Bar of California who have practiced law in this State for ~~10~~ten years, each appointed by the Governor; and six citizens who are not judges, retired judges, or members of the State Bar of California, two of whom shall be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. Except as provided in subdivisions (b) and (c), all terms are for four years. No member shall serve more than two four-year terms, or for more than a total of ~~10~~ten years if appointed to fill a vacancy.

(b) Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. ~~Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single two year term, but may not appoint them to an additional term thereafter.~~

(c) ~~To~~ Members of the Commission shall hold ~~ereate~~ staggered terms ~~among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:~~

(1) ~~Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of two years and may be reappointed to one full term.~~

(2) ~~One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.~~

(3) ~~One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.~~

(4) ~~One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.~~

~~(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of two years and may be reappointed to one full term.~~

~~(6) All other members shall be appointed to full four-year terms commencing March 1, 1995.~~

(d) The Commission shall be responsible for investigating allegations of and imposing discipline for judicial misconduct, including but not limited to removal from office, and such other matters as provided by law.

SECTION 98. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.

SECTION 109. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition directed to the superior court in causes subject to its appellate jurisdiction.

Superior courts have original jurisdiction in all other causes.

The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

SECTION 110. (a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes as prescribed by statute. When appellate jurisdiction in civil causes is determined by the amount in controversy, the Legislature may change the appellate jurisdiction of the courts of appeal by changing the jurisdictional amount in controversy.

(b) Except as provided in subdivision (a), the appellate division of the superior court has appellate jurisdiction in causes prescribed by statute.

(c) The Legislature may permit courts exercising appellate jurisdiction to take evidence and make findings of fact when jury trial is waived or not a matter of right.

SECTION 111. (a) The Supreme Court may, before decision, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

(b) The Supreme Court may review the decision of a court of appeal in any cause.

(c) The Judicial Council shall provide, by rules of court, for the time and procedure for transfer and for review, including, among other things, provisions for the time and procedure for transfer with instructions, for review of all or part of a decision, and for remand as improvidently granted.

(d) This Section shall not apply to an appeal involving a judgment of death.

SECTION 1312. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

SECTION 1413. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated.

SECTION 1514. A person is ineligible to be a judge of a court of record unless for ten years immediately preceding selection, the person has been a member of the State Bar or served as a judge of a court of record in this State.

[The provisions of former Section 16 below are revised to provide for the appointment of judges in all rather than in many cases, subject to their approval by the voters in all cases for each term.]

SECTION 1615. (a) Judges of the Supreme Court shall be appointed by the Governor subject to approval by the voters of the State for the Supreme Court and voters elected in their districts for courts of appeal, in each case at the next general election, s at the same time and places as the Governor. Their terms are 12 twelve years beginning the Monday after January 1 following their election the approval of their appointment by the voters, except that a judge elected appointed to and approved by the voters for an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective initial terms of the judges are 4, 8, and 12 years.

(b) Judges of superior courts shall be appointed by the Governor subject to approval by the voters elected in their counties at the next general election, s except as otherwise necessary to meet the requirements of federal law. In the latter case the Legislature, by two thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d), or by any other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) — Terms of judges of superior courts are six years beginning the Monday after January 1 following their election the approval of their appointment by the voters.

~~(c) — A Judicial vacancies shall be filled by the Governor by election appointment subject to approval by the voters at the next general or state-wide special election to a full term at the next general election after the second January 1 following the vacancy, but~~ The Governor shall may appoint a person to fill the a vacancy temporarily until the elected appointed judge's term begins following approval of such judge by the voters.

~~(d)-(1) Judges shall again be subject to approval by the voters for a new term at the general election prior to the expiration of their current term. Judges rejected by the voters shall not be reappointed by the Governor as a judge for a period of eight years. Within 30 days before August 16 preceeding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.~~

~~(2) — The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies.~~

~~(e) — A nomination or Judicial appointments by the Governor is shall not be effective when until confirmed by the Commission on Judicial Appointments.~~

~~(3) — Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts.~~

SECTION 1716. A judge of a court of record may not practice law and during the her or his term for which the judge was selected is ineligible for public employment or public office other than judicial employment or judicial office, except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive finer or fees any monetary or other penalty imposed by the courts for personal use. A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office.

SECTION 1717. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the

United States with a crime punishable as a felony under California or federal law, or (2) a petition to the Supreme Court to review a determination by the Commission on Judicial Performance to remove or retire a judge.

(b) The Commission on Judicial Performance may disqualify a judge from acting as a judge, without loss of salary, upon notice of formal proceedings by the commission charging the judge with judicial misconduct or disability.

(c) The Commission on Judicial Performance shall suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If the conviction is reversed, suspension terminates, and the judge shall be paid the salary for the judicial office held by the judge for the period of suspension. If the judge is suspended and the conviction becomes final, the Commission on Judicial Performance shall remove the judge from office.

(d) Except as provided in subdivision (f), the Commission on Judicial Performance may:

(1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, or

(2) censure a judge or former judge or remove a judge for action occurring not more than 6 years prior to the commencement of the judge's current term or of the former judge's last term that constitutes willful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or

(3) publicly or privately admonish a judge or former judge found to have engaged in an improper action or dereliction of duty. The commission may also bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court. Upon petition by the judge or former judge, the Supreme Court may, in its discretion, grant review of a determination by the commission to retire, remove, censure, admonish, or disqualify pursuant to subdivision (b) a judge or former judge. When the Supreme Court reviews a determination of the commission, it may make an independent review of the record. If the Supreme Court has not acted within 120 days after granting the petition, the decision of the commission shall be final.

(e) A judge retired by the commission shall be considered to have retired voluntarily. A judge removed by the commission is ineligible for judicial office, including receiving an assignment, appointment, or reference of work from any California state court, and pending further order of the court is suspended from practicing law in this State. The State Bar may institute appropriate attorney

disciplinary proceedings against any judge who retires or resigns from office with judicial disciplinary charges pending.

(f) A determination by the Commission on Judicial Performance to admonish or censure a judge or former judge of the Supreme Court or remove or retire a judge of the Supreme Court shall be reviewed by a tribunal of ~~7~~seven court of appeal judges selected by lot.

(g) No court, except the Supreme Court, shall have jurisdiction in a civil action or other legal proceeding of any sort brought against the commission by a judge. Any request for injunctive relief or other provisional remedy shall be granted or denied within 90 days of the filing of the request for relief. A failure to comply with the time requirements of this Section does not affect the validity of commission proceedings.

(h) Members of the commission, the commission staff, and the examiners and investigators employed by the commission shall be absolutely immune from suit for all conduct at any time in the course of their official duties. No civil action may be maintained against a person, or adverse employment action taken against a person, by any employer, public or private, based on statements presented by the person to the commission.

(i) The Commission on Judicial Performance shall make rules implementing this Section, including, but not limited to, the following:

(1) The commission shall make rules for the investigation of judges. The commission may provide for the confidentiality of complaints to and investigations by the commission.

(2) The commission shall make rules for formal proceedings against judges when there is cause to believe there is a disability or wrongdoing within the meaning of subdivision (d).

(j) When the commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public. ~~for all formal proceedings instituted after February 28, 1995.~~

~~(k) The commission may make explanatory statements.~~

~~(k)~~ The budget of the commission shall be separate from the budget of any other state agency or court.

~~(m)~~ The Supreme Court shall make rules for the conduct of judges, both on and off the bench, including with respect to the elections at which she or he is subject to approval by the voters and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics.

SECTION 18.1. The Commission on Judicial Performance shall exercise discretionary jurisdiction with regard to the oversight and discipline of subordinate judicial officers,

according to the same standards, and subject to review upon petition to the Supreme Court, as specified in Section 178.

No person who has been found unfit to serve as a subordinate judicial officer after a hearing before the Commission on Judicial Performance shall have the requisite status to serve as a subordinate judicial officer.

This Section does not diminish or eliminate the responsibility of a court to exercise initial jurisdiction to discipline or dismiss a subordinate judicial officer as its employee.

[The former Section 18.5 below is enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

~~SECTION 18.5. (a) Upon request, the Commission on Judicial Performance shall provide to the Governor of any State of the Union the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the Governor of any State of the Union indicates is under consideration for any judicial appointment.~~

~~(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.~~

~~(c) Upon request, the Commission on Judicial Performance shall provide the Commission on Judicial Appointments the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to any applicant whom the Commission on Judicial Appointments indicates is under consideration for any judicial appointment.~~

~~(d) All information released under this section shall remain confidential and privileged.~~

~~(e) Notwithstanding subdivision (d), any information released pursuant to this section shall also be provided to the applicant about whom the information was requested.~~

~~(f) "Private admonishment" refers to a disciplinary action against a judge by the Commission on Judicial Performance as authorized by subdivision (c) of Section 18 of Article VI, as amended November 8, 1988.~~

[The provisions of former Section 19 below are addressed by new Section 7 of Article III.]

~~SECTION 19. The Legislature shall prescribe compensation for judges of courts of record. A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision.~~

~~SECTION 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability.~~

SECTION 20~~1~~. On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause.

SECTION 21~~2~~. The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.

ARTICLE VII PUBLIC OFFICERS AND EMPLOYEES

SECTION 1. (a) The civil service includes every officer and employee of the State except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination.

SECTION 2. (a) There is a Personnel Board of ~~5~~five members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for ~~10~~ten-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members as presiding officer.

(c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board.

SECTION 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board.

SECTION 4. The Legislature may provide for exemptions from the civil service. ~~following are exempt from civil service:~~

[The former provisions of this Section 4 below are enacted into law and thereby preserved and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

- ~~(a) — Officers and employees appointed or employed by the Legislature, either house, or legislative committees.~~
- ~~(b) — Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.~~
- ~~(c) — Officers elected by the people and a deputy and an employee selected by each elected officer.~~
- ~~(d) — Members of boards and commissions.~~
- ~~(e) — A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.~~
- ~~(f) — State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.~~
- ~~(g) — A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).~~
- ~~(h) — Officers and employees of the University of California and the California State Colleges.~~
- ~~(i) — The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.~~
- ~~(j) — Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.~~
- ~~(k) — Members of the militia while engaged in military service.~~
- ~~(l) — Officers and employees of district agricultural associations employed less than 6 months in a calendar year.~~
- ~~(m) — In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.~~

SECTION 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9-nine months in 12-twelve consecutive months.

SECTION 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the State undertakes work previously performed by a county, city, public district of this State or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute.

[The provisions of former Section 7 below are outdated.]

~~SECTION 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service.~~

SECTION ~~7~~. (a) Every person shall be disqualified from holding any public office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.

(b) ~~Laws shall be made to exclude~~ The Legislature shall enact laws to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SECTION ~~9~~8. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any ~~county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State~~ local government; or

(b) Receive any exemption from any tax or fee imposed by this State or any ~~county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State~~ local government.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this Section.

[The provisions of former Section 10 below have limited, if any, practical effect.]

~~SECTION 10. (a) No person who is found liable in a civil action for making libelous or slanderous statements against an opposing candidate during the course of an election campaign for any federal, statewide, Board of Equalization, or legislative office or for any county, city and county, city, district, or any other local elective office shall retain the seat to which he or she is elected, where it is established that the libel or slander was a major contributing cause in the defeat of an opposing candidate.~~

~~A libelous or slanderous statement shall be deemed to have been made by a person within the meaning of this section if that person actually made the statement or if the person actually or constructively assented to, authorized, or ratified the statement.~~

~~"Federal office," as used in this section means the office of United States Senator and Member of the House of Representatives; and to the extent that the provisions of this section do not conflict with any provision of federal law, it is intended that candidates seeking the office of United States Senator or Member of the House of Representatives comply with this section.~~

~~(b) In order to determine whether libelous or slanderous statements were a major contributing cause in the defeat of an opposing candidate, the trier of fact shall make a separate, distinct finding on that issue. If the trier of fact finds that libel or slander was a major contributing cause in the defeat of an opposing candidate and that the libelous or slanderous statement was made with knowledge that it was false or with reckless disregard of whether it was false or true, the person holding office shall be disqualified from or shall forfeit that office as provided in subdivision (d). The findings required by this section shall be in writing and shall be incorporated as part of the judgment.~~

~~(c) In a case where a person is disqualified from holding office or is required to forfeit an office under subdivisions (a) and (b), that disqualification or forfeiture shall create a vacancy in office, which vacancy shall be filled in the manner provided by law for the filling of a vacancy in that particular office.~~

~~(d) Once the judgment of liability is entered by the trial court and the time for filing a notice of appeal has expired, or all possibility of direct attack in the courts of this State has been finally exhausted, the person shall be disqualified from or shall forfeit the office involved in that election and shall have no authority to exercise the powers or perform the duties of the office.~~

~~(e) This section shall apply to libelous or slanderous statements made on or after the effective date of this section.~~

[The provisions of former Section 11 below are addressed by new Section 7 of Article III.]

~~SECTION 11.9. The State and local governments shall have no power to provide new or increased pension, retirement, health or other similar benefits to a State or local~~

government elected official, officer or employee after the conclusion of her or his public service or employment.

~~(a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.~~

~~(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.~~

~~(c) The Legislature may define the terms used in this section.~~

~~(d) If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.~~

ARTICLE VIII PUBLIC EDUCATION

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

SECTION 2. The elected office of Superintendent of Public Instruction is eliminated. The former responsibilities of the Superintendent of Public Instruction shall be performed by the State Board of Education, which may appoint a Superintendent of Public Instruction as provided by law. ~~A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. No Superintendent of Public Instruction may serve more than 2 terms.~~

SECTION 2.1. ~~The State Board of Education, on nomination of the Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from state civil service and whose terms of office shall be four years. This section shall not be construed as prohibiting the appointment, in accordance with law, of additional Associate Superintendents of Public Instruction subject to state civil service.~~

SECTION 3. (a) ~~Section A~~ Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; ~~provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this Article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting.~~

~~SECTION 3.1. (ab) Notwithstanding any provision of this Constitution to the contrary, the Legislature county board of education shall prescribe the qualifications required of and fix the salary for the county superintendents of schools, and for these purposes shall classify the several counties in the State.~~

~~(b) Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools or the joint county superintendent of schools, respectively.~~

SECTION 3.24. (a) ~~Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools, upon approval of the voters in such elections, shall be governed by the general statutes and shall not~~ may be governed by the provisions of any the county charter of any of such counties. All references in this Constitution to county boards of education and county superintendents of schools shall include such joint boards and joint superintendents, respectively.

~~SECTION 3.3. (b) Except as provided in Section 3.2 of this Article, it shall be competent to provide in a~~ Any charter framed for a county under any provision of this Constitution, or by the an amendment of any such charter, may provide for the election qualifications and terms of office of the members of the county board of education of such county and for their qualifications and terms of office.

SECTION 5. (a) ~~The Legislature shall provide for a system of common public schools by which a free schools shall be kept up and supported in each district beginning with kindergarten and continuing for each of the next twelve grades. Such schools shall provide students at least six-180 days of instruction months in every year beginning with the first school year which commences after the date of adoption of this Constitution, after the first year in which a school has been established.~~

(b) The Legislature shall provide such additional and continuing funding to school districts (other than community college districts) from State tax and other revenues sufficient, together with ad valorem property tax and other revenues otherwise provided to school districts pursuant to this Constitution, so that the average annual expenditures per full-time student in the State, as adjusted for the relative costs of living within and between states, shall be among the highest in the

country, as reasonably determined by the Controller based upon reputable and publicly-available national statistics. Expenditures for purposes of this subdivision (b) shall mean current expenditures, capital expenditures (other than from proceeds of bonds), and debt service on bonds. Such funds shall be allocated by the State to school districts per capita bases upon the number of full-time students, and shall be used and applied at the discretion of such school districts.

(c) The Legislature shall provide such additional and continuing funding for State institutions of higher education, including the University of California and California State Universities, from State tax and other revenues, as shall be sufficient:

(1) to offer qualified students who have been residents of this State for at least four years: (A) undergraduate and graduate education at a minimal cost, and (B) professional education at a moderate cost, in each case (i) relative to comparable public institutions outside the State, and (ii) excluding any financial aid, provided employment or student loans;

(2) to maintain existing facilities and educational programs; and

(3) to continually improve the quality of the facilities and the education offered by such institutions.

(d) Private donations to public schools and State institutions of higher education for educational purposes and income from such donations shall not be taken into account by the State or any local government in the allocation or appropriation of tax or other governmental revenues except if, but only to the extent, required with respect to school and high school districts by Article I of this Constitution or of the Constitution of the United States.

[The provisions of former Section 6 below are outdated or addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars (\$2,400) for a person serving full time, as defined by law.~~

~~The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.~~

~~The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred eighty dollars (\$180) per pupil in average daily attendance in the~~

~~kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.~~

~~The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred twenty dollars (\$120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty four hundred dollars (\$2,400).~~

~~Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section.~~

SECTION 61/2. Nothing in this eConstitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the HLegislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; provided, that all such bonds shall be issued subject to the limitations prescribed in Section eighteen of Article eleven hereofthis Constitution.

SECTION 7. The Legislature shall provide for the ~~appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties.~~ The State Board of Education shall consist of the Lieutenant Governor and ten other members appointed by the Governor subject to confirmation by a majority of the Members of the Senate. The Governor shall seek to appoint members who reflect the diversity of our State. Members shall serve four-year terms beginning on January 1 of each even-numbered year, with half of such members appointed every two years. No member shall serve more than two terms.

SECTION 7.58. The State Board of Education, to enable greater local control over school district policies, procedures and budgets, shall provide only non-binding guidelines to county boards of education and school districts shall adopt for (a) the adoption of textbooks for use in grades one through eight-twelve throughout the State, to which textbooks shall be furnished by school districts without cost; (b) school curricula; (c) standardized testing; (d) teacher standards, evaluation and professional development; (f) special education; and (g) other appropriate matters, as provided by statute.

[The provisions of former Section 8 below are addressed by Section 4 of Article I and new Section 3 of new Article XV.]

~~SECTION 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.~~

SECTION 9. (a) The University of California shall constitute a public trust, to be administered by the existing corporation known as "The Regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Said corporation shall be in form a board of regents composed of seven *ex officio* members, which shall be: the Governor, the Lieutenant Governor, the Treasurer, the Controller, the Speaker of the Assembly, ~~the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university, and 18-16~~ appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring; ~~provided, however that the present appointive members shall hold office until the expiration of their present terms.~~

(b) ~~The terms of the members appointed prior to November 5, 1974, shall be 16 years; the terms of two appointive members to expire as heretofore on March 1st of every even-numbered calendar year, and tTwo members shall be appointed each year for terms commencing on March 1-1976, and on March 1 of each year thereafter; provided, that no such appointments shall be made for terms to commence on March 1, 1979, or on March 1 of each fourth year thereafter, to the end that no appointment to the regents for a newly commencing term shall be made during the first year of any each gubernatorial term of office. The terms of the members Regents appointed for terms commencing on and after March 1, 1976, shall be 12-twelve years. The positions of the first two Regents whose terms expire following the adoption of this Constitution shall not be filled. During the period of transition until the time when the appointive membership is comprised exclusively of persons serving for terms of 12 years, the total number of appointive members may exceed the numbers specified in the preceding paragraph.~~

In case of any vacancy, the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor and approved by the Senate, a majority of the membership concurring, shall be for the balance of the term for which such vacancy exists.

(c) The members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members

with all rights of participation: a member of the faculty at a campus of the university or of another institution of higher education; a person enrolled as a student at a campus of the university for each regular academic term during her or his service as a member of the board. Any person so appointed shall serve for not less than one year commencing on July 1.

(d) Regents shall be able persons broadly reflective of the economic, cultural, and social diversity of the State, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in the selection of regents.

(e) In the selection of the Regents, the Governor shall consult an advisory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members appointed by the Rules Committee of the Senate, two public members appointed by the Governor, the chairman of the regents of the university, an alumnus of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the faculty of the university chosen by the academic senate of the university. Public members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President Pro Tempore of the Senate, and the Governor shall be appointed to serve for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

(g) Meetings of the Regents of the University of California shall be public, with exceptions and notice requirements as may be provided by statute.

SECTION 1410. (a) The Legislature shall ~~have power~~, by general law, to provide for the incorporation and organization of school districts, ~~high school districts, and~~

community college districts, of every kind and class, and may classify such districts. For all purposes of this Constitution, the term "school district" includes school, high school and community college districts.

(b) To offer parents a greater voice in the education of their children, to provide for school districts that are more responsive to the communities they serve, and to encourage greater economy and efficiency in school administration, the voters in each school district (other than community college districts) with a full-time student enrollment of more than 25,000 students may, by a majority vote on an initiative for such purpose, elect to reorganize such district into two or more districts. Such initiative may be instituted by presenting a petition which is certified to have been signed by voters within the district equal in number to five percent of the votes cast for all candidates for Governor at the last gubernatorial election. To the extent practicable, the resulting districts shall maintain the diversity of the former district and shall not divide existing communities. The Legislature shall provide by law only the procedures for such initiatives. This subdivision (b) supersedes any inconsistent provisions in any county, city, or city and county charter.

(c) The Legislature may authorize the governing boards of all school districts, and the county boards of education with respect to any county-wide programs and services, to shall have authority over and control of their budgets, curricula, and the management and administration of the schools and employees within such districts, and may initiate and carry on any programs and activities, or and to otherwise act in any manner which is not in conflict with this Constitution the laws and the purposes for which school districts are established. The budgets of school districts other than community college districts shall be subject to approval by the county superintendent of schools.

SECTION 116. (a) It shall be competent, in all charters framed under the authority given by Section 5 of Article XI, to provide, in addition to those provisions allowable by this Constitution, ~~and by the laws of the State~~ for the manner in which, the times at which, and the terms for which the members of boards of education shall be elected ~~or appointed~~, for their qualifications, compensation and removal, and for the number ~~which shall constitute any one of members~~ of such boards.

(b) Notwithstanding Section 3 of Article XI, when the boundaries of a school district ~~or community college district~~ extend beyond the limits of a city whose charter provides for any or all of the foregoing with respect to the members of its board of education, no charter amendment effecting a change in the manner in which, the times at which, or the terms for which the members of the board of education shall be elected ~~or appointed~~, for their qualifications, compensation, or removal, or for the number which shall constitute such board, shall be adopted unless it is submitted to and approved by a majority of all the qualified electors of the school district ~~or community college district~~ voting on the question. Any such amendment, and any portion of a proposed charter or a revised charter which would establish or change any of the foregoing provisions respecting a board of education, shall be submitted to the electors of the school district ~~or community college district~~ as one or more separate questions. The failure of any such separate question to be approved shall have

the result of continuing in effect the applicable existing law with respect to that board of education.

ARTICLE ~~XIX~~ WATER

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

SECTION 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this Section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This Section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this Section contained.

SECTION 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the water of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any ~~town, city, county, city and county, municipal corporation~~ local government, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest.

SECTION 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

SECTION 5. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law.

SECTION 6. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

SECTION 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired.

[The former Article XA below is enacted into law (with cross-references conformed) and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

[ARTICLE XA WATER RESOURCES DEVELOPMENT]

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that~~

~~any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.~~

~~(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section, unless the Supreme Court determines that the action or proceeding is unlikely to substantially affect (1) the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court's calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.~~

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

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

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

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

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

~~*[The former Article XB below is enacted into law (with cross-references conformed) and thereby preserved, and shall not be amended or repealed without the approval a majority of the voters voting on the proposition.]*~~

[ARTICLE XB MARINE RESOURCES PROTECTION ACT OF 1990]

~~SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990.~~

~~SECTION 2. (a) "District" means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.~~

~~(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.~~

~~(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the State.~~

~~(d) "Zone" means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:~~

~~(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.~~

~~(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.~~

~~(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.~~

~~SECTION 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.~~

~~(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.~~

~~SECTION 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.~~

~~(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The~~

Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

~~SECTION 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:~~

~~(a) Has a commercial fishing license issued pursuant to Sections 7850-7852.3 of the Fish and Game Code.~~

~~(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net.~~

~~SECTION 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:~~

Calendar Year	Fee
1991	\$250
1992	500
1993	1,000

~~SECTION 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.~~

~~(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one-time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.~~

~~(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.~~

~~(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article.~~

~~SECTION 8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the Department of Fish and~~

~~Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.~~

~~(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.~~

~~(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars (\$3). This subdivision does not apply to any one day fishing license.~~

~~(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars (\$3).~~

~~(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.~~

~~(f) This section shall become inoperative on January 1, 1995.~~

~~SECTION 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act.~~

~~SECTION 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds.~~

~~SECTION 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.~~

~~SECTION 12. To increase the State's scientific and biological information on the ocean fisheries of this State, the Department of Fish and Game shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.~~

~~SECTION 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars (\$2,500) and not more than ten thousand dollars (\$10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.~~

~~(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.~~

~~(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.~~

~~SECTION 14. Prior to January 1, 1994, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources.~~

~~SECTION 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds.~~

~~SECTION 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.~~

ARTICLE XIX LOCAL GOVERNMENT

~~SECTION 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedures for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a~~

majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. Except as provided in subdivision (b) of Section 4 of this Article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees.

SECTION 2. (a) The Legislature shall prescribe uniform procedures for city formation and provide for city powers.

(b) Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another.

SECTION 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this Section shall supersede any existing charter and all State laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of ~~2~~-two or more measures approved at the same election conflict, ~~those of~~ the measure receiving the highest affirmative vote shall prevail.

SECTION 4. County charters shall provide for:

(a) A governing body of ~~5~~-five or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this Article, shall, as to such county, be superseded by said charter as to matters for which, under this Section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties.

SECTION 5. (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to its municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws of the State regarding matters which by their nature are necessarily of State-wide concern. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all State laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State, for:

- (1) the constitution, regulation, and government of the city police force,
- (2) subgovernment in all or part of a city,
- (3) conduct of city elections, and

(4) plenary authority is hereby granted, subject only to the restrictions of this Article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.

SECTION 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers.

SECTION 7. (a) A non-charter county or city may make and enforce within its limits all ~~local~~ police, sanitary, and other local ordinances and regulations not in conflict with general laws of the State.

[The provisions of former Section 7.5 below are consolidated into Section 7.]

~~SECTION 7.5.(ab) No measure submitted by a city or county to the voters for approval shall: (1) include or exclude only a part of such city or county from its application or effect based upon votes cast for or against the measure; or (2) A city or county measure proposed by the legislative body of a city, charter city, county, or charter county and submitted to the voters for approval may not do either of the following:~~

~~(1) Include or exclude any part of the city, charter city, county, or charter county from the application or effect of its provisions based upon approval or disapproval of the city or county measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of the city, charter city, county, charter county, or any part thereof.~~

~~(2) Contain alternative or cumulative provisions based upon the votes cast for or against such measure, wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.~~

~~(b) "City or county measure," as used in this Section, means an advisory question, proposed charter or charter amendment, ordinance, proposition for the issuance of bonds, or other question or proposition submitted to the voters of a city, or to the voters of a county at an election held throughout an entire single county.~~

SECTION 8. (a) The Legislature may provide that counties perform ~~municipal city~~ functions at the request of cities within them.

(b) If provided by their respective charters, a county may agree with a city within it to assume and discharge specified ~~municipal-city~~ functions.

SECTION 9. (a) A municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication. It may furnish those services outside its boundaries, except within another municipal corporation which furnishes the same service and does not consent.

(b) Persons or corporations may establish and operate works for supplying those services upon conditions and under regulations that the city may prescribe under its organic law.

SECTION 10. (a) A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law.

(b) A city or county, including any chartered city or chartered county, or public district, may not require that its employees be residents of such city, county, or district; except that such employees may be required to reside within a reasonable and specific distance of their place of employment or other designated location.

SECTION 11. (a) The Legislature may not delegate to a private person or body any powers or functions of local governments.

(b) The State and local governments may contract with private parties for the provision of goods and services; provided, that this subdivision (b) shall not apply to essential governmental functions and services, including but not limited to police, fire and public safety power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

SECTION 12. Except as otherwise limited by this Constitution, local governments shall have control over and discretion as to their (a) budgets, including the application and use of their tax and other revenues, and (b) their programs and services, all in furtherance of their powers, responsibilities and purposes.~~The Legislature may, however, provide for the deposit of public moneys in any bank in this State or in any savings and loan association in this State or any credit union in this State or in any federally insured industrial loan company in this State and for payment of interest, principal, and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this State. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this State, acting as trustees or fiscal agents.~~

SECTION ~~12~~13. The Legislature may prescribe procedure for presentation, consideration, and enforcement of claims against counties, cities, their officers, agents, or employees.

SECTION 14. A local government formed after the effective date of this Section, the boundaries of which include all or part of two or more counties, shall not levy a property tax unless such tax has been approved by a majority vote of the qualified voters of that local government voting on the issue of the tax.

ARTICLE ~~XIXI~~ PUBLIC UTILITIES

SECTION 1. The Public Utilities Commission consists of ~~5~~-five members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered ~~6~~six-year terms. A vacancy is filled for the remainder of the term. The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring.

SECTION 2. Subject to statute and due process, the commission may establish its own procedures. Any commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval.

SECTION 3. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities.

SECTION 4. The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies, prohibit discrimination, and award reparation for the exaction of unreasonable, excessive, or discriminatory rate or charges. A transportation company may not raise a rate or ~~incidental~~ charge except after a showing to and a decision by the commission that the increase is justified, and this decision shall not be subject to judicial review except as to whether confiscation of property will result.

SECTION 5. The Legislature has plenary power, unlimited by the other provisions of this eConstitution but consistent with this Article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a court of record, and to enable it to fix just compensation for utility property taken by eminent domain.

SECTION 6. The commission may fix rates, establish rules, examine records, issue subpoenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction.

SECTION 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission.

SECTION 8. A city, county, or other public body local government may not regulate matters over which the Legislature grants regulatory power to the Commission. This Section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of any city to grant franchises for public utilities or other businesses on terms, and conditions, and in the manner prescribed by law.

~~SECTION 9. The provisions of this article restate all related provisions of the Constitution in effect immediately prior to the effective date of this amendment and make no substantive change.~~

ARTICLE ~~XIII~~XII TAXATION

SECTION 1. ~~Unless~~ Except as otherwise provided by this Constitution ~~or the laws of the United States:~~

(a) All property is taxable and shall be assessed at the same percentage of fair market value. ~~When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.~~

(b) All property so assessed shall be taxed in proportion to its full value.

SECTION 2. The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this Article. The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed four-tenths of one percent of full value, and the tax per dollar of full value shall not be higher on personal property than on real property in the same taxing jurisdiction.

[The former provisions of Section 3 below, amended as set forth below (with cross-references conformed), are enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

SECTION 3. ~~The following are exempt from property taxation:~~

(a) ~~Property owned by the State.~~

(b) ~~Property owned by a local government, except as otherwise provided in Section 11(a).~~

(c) ~~Bonds issued by the State or a local government in the State.~~

~~(d) — Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.~~

~~(e) — Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education, school or high school.~~

~~(f) — Buildings, land on which they are situated, and equipment used exclusively for religious worship, and real property not used for commercial purposes that is reasonably required for parking for persons attending such religious worship.~~

~~(g) — Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.~~

~~(h) — Growing crops.~~

~~(i) — Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.~~

~~*[(j) — Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.]*~~

~~*The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this Article.]*~~

~~(k) — \$7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.~~

~~No increase in this exemption above the amount of \$7,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.~~

~~If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.~~

~~(l) — Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers.~~

~~(m) — Household furnishings and personal effects not held or used in connection with a trade, profession, or business.~~

~~(n) — Any debt secured by land.~~

~~(o) — Property in the amount of \$1,000 of a claimant who —~~

~~(1) — is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and —~~

~~(2) — served either~~

~~(i) — in time of war, or~~

~~(ii) — in time of peace in a campaign or expedition for which a medal has been issued by Congress, or~~

~~(iii) — in time of peace and because of a service-connected disability was released from active duty; and —~~

~~(3) — resides in the State on the current lien date.~~

~~An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.~~

~~If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.~~

~~(p) — Property in the amount of \$1,000 of a claimant who —~~

~~(1) — is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3 (o), and~~

~~(2) — does not own property in excess of \$10,000, and~~

~~(3) — is a resident of the State on the current lien date.~~

~~(q) — Property in the amount of \$1,000 of a claimant who —~~

~~(1) — is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and~~

~~(2) — receives a pension because of the veteran's service, and~~

~~(3) — is a resident of the State on the current lien date.~~

~~Either parent of a deceased veteran may claim this exemption.~~

~~An [unmarried person] individual who owns property valued at \$5,000 or more, or a [married person, who, together with the spouse,] couple which owns property valued at \$10,000 or more, is ineligible for this exemption.~~

~~*[(r) — No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by the previous section 11/4 of this Article had it not been repealed shall lose eligibility for the exemption as a result of this amendment.]*~~

~~SECTION 3.5. In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this Article to maintain the same proportionate values of such property.~~

SECTION 43. The Legislature may exempt from property taxation in whole or in part:

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

(b) Property used exclusively for religious, hospital, educational or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

(c) Such other property as the Legislature shall provide with the approval of 60 percent of the members of each house of the Legislature. ~~Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.~~

~~(d) — Real property not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons worshipping on land exempt by Section 3(f).~~

~~SECTION 5. Exemptions granted or authorized by Sections 3(e), 3(f), and 4(b) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption.~~

~~SECTION 64. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for that year.~~

[The former Sections 7 through 12 below may be enacted into law by the Legislature in whole or in part as provided in and except as otherwise limited by this Constitution.]

~~SECTION 7. The Legislature, two-thirds of the membership of each house concurring, may authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them.~~

~~SECTION 8. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.~~

~~To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.~~

~~SECTION 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or older may postpone ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature may also provide by law for the manner in which a disabled person may postpone payment of ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature shall have plenary power to define all terms in this section.~~

~~The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of revenue lost by each by reason of the postponement of taxes and for the reimbursement to the State of subventions from the payment of postponed taxes. Provision shall be made for the inclusion of reimbursement for the payment of interest on, and any costs to the State incurred in connection with, the subventions.~~

~~SECTION 9. The Legislature may provide for the assessment for taxation only on the basis of use of a single family dwelling, as defined by the Legislature, and so much of the land as is required for its convenient use and occupation, when the dwelling is occupied by an owner and located on land zoned exclusively for single family dwellings or for agricultural purposes.~~

~~SECTION 10. Real property in a parcel of 10 or more acres which, on the lien date and for 2 or more years immediately preceding, has been used exclusively for nonprofit golf course purposes shall be assessed for taxation on the basis of such use, plus any value attributable to mines, quarries, hydrocarbon substances, or other minerals in the property or the right to extract hydrocarbons or other minerals from the property.~~

~~SECTION 11. (a) — Lands owned by a local government that are outside its boundaries, including rights to use or divert water from surface or underground sources and any other interests in lands, are taxable if (1) they are located in Inyo or Mono County and (a) they were assessed for taxation to the local government in Inyo County as of the 1966 lien date, or in Mono County as of the 1967 lien date, whether or not the assessment was valid when made, or (b) they were acquired by the local government subsequent to that lien date and were assessed to a prior owner as of that lien date and each lien date thereafter, or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired.~~

~~(b) — Taxable land belonging to a local government and located in Inyo County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1966 lien date and in an amount derived by multiplying its 1966 assessed value by the ratio of the statewide per capita assessed value of land as of the last lien date prior to the current lien date to \$766, using civilian population only. Taxable land belonging to a local government and located in Mono County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1967 lien date and in an amount determined by the preceding formula except that the 1967 lien date, the 1967 assessed value, and the figure \$856 shall be used in the formula. Taxable land belonging to a local government and located outside of Inyo and Mono counties shall be assessed at the place where located and in an amount that does not exceed the lower of (1) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and (2) a figure derived in the manner specified in this Section for land located in Mono County.~~

~~If land acquired by a local government after the lien date of the base year specified in this Section was assessed in the base year as part of a larger parcel, the assessed value of the part in the base year shall be that fraction of the assessed value of the larger parcel that the area of the part is of the area of the larger parcel.~~

~~If a local government divests itself of ownership of land without water rights and this land was assessed in Inyo County as of the 1966 lien date or in Mono County as of the 1967 lien date, the divestment shall not diminish the quantity of water rights assessable and taxable at the place where assessed as of that lien date.~~

~~(c) — In the event the Legislature changes the prevailing percentage of fair market value at which land is assessed for taxation, there shall be used in the computations required by Section 11(b) of this Article, for the first year for which the new percentage is applicable, in lieu of the statewide per capita assessed value of land as~~

~~of the last lien date prior to the current lien date, the statewide per capita assessed value of land on the prior lien date times the ratio of the new prevailing percentage of fair market value to the previous prevailing percentage.~~

~~(d) — If, after March 1954, a taxable improvement is replaced while owned by and in possession of a local government, the replacement improvement shall be assessed, as long as it is owned by a local government, as other improvements are except that the assessed value shall not exceed the product of (1) the percentage at which privately owned improvements are assessed times (2) the highest full value ever used for taxation of the improvement that has been replaced. For purposes of this calculation, the full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.~~

~~(e) — No tax, charge, assessment, or levy of any character, other than those taxes authorized by Sections 11(a) to 11(d), inclusive, of this Article, shall be imposed upon one local government by another local government that is based or calculated upon the consumption or use of water outside the boundaries of the government imposing it.~~

~~(f) — Any taxable interest of any character, other than a lease for agricultural purposes and an interest of a local government, in any land owned by a local government that is subject to taxation pursuant to Section 11(a) of this Article shall be taxed in the same manner as other taxable interests. The aggregate value of all the interests subject to taxation pursuant to Section 11(a), however, shall not exceed the value of all interests in the land less the taxable value of the interest of any local government ascertained as provided in Sections 11(a) to 11(e), inclusive, of this Article.~~

~~(g) — Any assessment made pursuant to Section 11(a) to 11(d), inclusive, of this Article shall be subject to review, equalization, and adjustment by the State Board of Equalization, but an adjustment shall conform to the provisions of these Sections.~~

~~SECTION 12. (a) — Except as provided in subdivision (b), taxes on personal property, possessory interest in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.~~

~~(b) — In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls.~~

SECTION 135. Land and improvements shall be separately assessed.

SECTION 146. All property taxed by local government shall be assessed in the county, city, and taxing district in which it is situated.

SECTION ~~15~~7. The Legislature may authorize local governments to provide for the assessment or reassessment of taxable property physically damaged or destroyed after the lien date to which the assessment or reassessment relates.

SECTION ~~16~~8. The county board of supervisors, or one or more assessment appeals boards created by the county board of supervisors, shall constitute the county board of equalization for a county. Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

~~Except as provided in subdivision (g) of Section 11,~~ The county board of equalization, under such rules of notice as the county board may prescribe, shall equalize the values of all property on the local assessment roll by adjusting individual assessments.

County boards of supervisors shall fix the compensation for members of assessment appeals boards, furnish clerical and other assistance for those boards, adopt rules of notice and procedures for those boards as may be required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions, and may provide for their discontinuance.

The Legislature shall provide for: (a) the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing, and removing them, and the terms for which they serve, and (b) the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards.

SECTION ~~17~~9. The Board of Equalization consists of ~~5~~five voting members: the Controller and ~~4~~four members elected for ~~4~~four-year terms at gubernatorial elections. The State shall be divided into four Board of Equalization districts with the voters of each district electing one member. No member may serve more than ~~2~~two terms.

SECTION ~~18~~10. The Board shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured local assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after such adjustments, shall be corrected for purposes of distributing this tax by equalizing the assessment levels of locally and state-assessed properties and varying the rate of the state tax inversely with the counties' respective assessment levels.

SECTION ~~19~~11. The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within ~~2~~two or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

No other tax, fee or ~~license~~ charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business companies, corporations and similar business entities. This restriction does not release a utility company from payments

agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee.

SECTION 2012. The Legislature may provide maximum property tax rates and bonding limits for local governments.

SECTION 213. ~~Within such limits as may be provided under Section 20 of this Article~~ Except as otherwise limited by this Constitution, the Legislature shall provide for an annual levy by ~~county governing bodies~~ counties of school district taxes sufficient to produce annual revenues for each district that the district's board determines are required for its schools and district functions; provided, that the amount of such revenues for schools and high schools shall be subject to approval by the county superintendent of schools.

SECTION 22. ~~Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof.~~

SECTION 23. ~~If state boundaries change, the Legislature shall determine how property affected shall be taxed.~~

SECTION 2414. The Legislature may not impose taxes for local purposes but may authorize local governments to impose them. ~~Money appropriated from state funds to a local government for its local purposes may be used as provided by law. Money subvented to a local government under Section 25 may be used for state or local purposes.~~

[The provisions of former Sections 25 and 25.5 below are addressed by new Section 18 of Article IV, new Section 24 of this Article, and Section 13 of the transitional provisions, among others.]

SECTION 25. ~~The Legislature shall provide, in the same fiscal year, reimbursements to each local government for revenue lost because of Section 3(k).~~

SECTION 25.5. (a) ~~On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:~~

(1) (A) ~~Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on~~

November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

~~(B) — Beginning with the 2008-09 fiscal year and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for a fiscal year if all of the following conditions are met:~~

~~(i) — The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.~~

~~(ii) — The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.~~

~~(iii) — No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.~~

~~(C) (i) Subparagraph (A) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year for which subparagraph (A) is suspended.~~

~~(ii) — Subparagraph (A) shall not be suspended during any fiscal year if the full repayment required by a statute enacted in accordance with clause (iii) of subparagraph (B) has not yet been completed.~~

~~(iii) — Subparagraph (A) shall not be suspended during any fiscal year if the amount that was required to be paid to cities, counties, and cities and counties under Section 10754.11 of the Revenue and Taxation Code, as that section read on November 3, 2004, has not been paid in full prior to the effective date of the statute providing for that suspension as described in clause (ii) of subparagraph (B).~~

~~(iv) — A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all~~

~~local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.~~

~~(2) (A) Except as otherwise provided in subparagraphs (B) and (C), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.~~

~~(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.~~

~~(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.~~

~~(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring.~~

~~(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley Burns Uniform Local Sales and Use Tax Law.~~

~~(5) Reduce, during any period in which the rate authority suspension described in paragraph (1) is operative, the payments to a city, county, or city~~

~~and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.~~

~~(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.~~

~~(b) For purposes of this section, the following definitions apply:~~

~~(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.~~

~~(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.~~

SECTION 2615. (a) The Legislature may impose taxes on or measured by income may be imposed on persons individuals, companies, corporations, or other entities, including insurance companies, banks and other financial institutions, as prescribed provided by law.

Except as authorized pursuant to Section 24, the highest effective marginal income tax rate shall not exceed (1) five percent for individuals; and (2) seven percent for companies, corporations and other entities.

(b) As persons of greater means enjoy more fully the rights and opportunities offered by this State and have a greater capacity to pay, the Legislature without voter approval may impose:

(1) Up to a one percent effective marginal rate on the income of individuals which exceeds \$100,000; and

(2) Up to a one and one-half percent effective marginal rate on the income of individuals which exceeds \$1 million,

in each case in addition to the then-current highest effective marginal rate, as further provided by law. Such dollar amounts shall be adjusted each year in proportion to changes in the cost of living in the State. The Legislature may reduce the aggregate income subject to such additional taxation of couples filing jointly. The proceeds of such additional income taxes shall be used and applied first to make any necessary deposits into the Budget Stabilization Account and then for other purposes.

(bc) Interest on bonds issued by the State or a local government in the State is exempt from taxes on income.

~~(ed)~~ Income of a nonprofit educational, charitable and religious institutions of collegiate grade within the State of California is exempt from taxes on or measured by income if both of the following conditions are met:

(1) The income is not unrelated business income as defined by the Legislature.

(2) The income is used exclusively for the institution's educational, charitable or religious purposes.

~~(de)~~ The Legislature shall apply taxes on or measured by income of individuals broadly so that the burden is distributed equitably among all who enjoy the rights and opportunities offered by this State; provided, that such taxes shall not be imposed on individuals of low income.

~~A nonprofit organization that is exempted from taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, is exempt from any business license tax or fee measured by income or gross receipts that is levied by a county or city, whether charter or general law, a city and county, a school district, a special district, or any other local agency.~~

~~(f)~~ The Legislature shall permit the deduction from income by individuals of at least: (1) interest on home mortgage loans for their primary residence, the aggregate principal amount of which does not exceed \$1 million (such amount to be adjusted each year in proportion to changes in the cost of living in the State); (2) real property taxes on their primary residence; and (3) charitable contributions, as further provided by law.

~~(g)~~ The income tax on capital gains shall not exceed one-half the rate on other income, as further provided by law.

~~(h)~~ That portion of the income taxes on multi-state companies, corporations and other business entities imposed by the State which is based on sales shall be allocated in proportion to their business activities within and outside the State.

~~(i)~~ Local governments shall have no power to impose taxes or fees on or measured by income of individuals, companies, corporations or other entities. Sales and use taxes imposed pursuant to Section 21 shall not constitute taxes or fees on or measured by income within the meaning of this subdivision (h).

[The provisions of former Section 27 below are addressed by the fiscal reform provisions of this Article.]

~~SECTION 27. The Legislature, a majority of the membership of each house concurring, may tax corporations, including state and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless~~

~~otherwise provided by the Legislature, the tax on state and national banks shall be according to or measured by their net income and shall be in lieu of all other taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees.~~

[The former Section 28 below is enacted into law and thereby preserved to the extent consistent with this Constitution.]

~~SECTION 28. (a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.~~

~~(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.~~

~~(c) In the case of an insurer not transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance. In the case of an insurer transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, all income upon business done in this State, except:~~

~~(1) Interest and dividends.~~

~~(2) Rents from real property.~~

~~(3) Profits from the sale or other disposition of investments.~~

~~(4) Income from investments.~~

~~"Investments" as used in this subdivision includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.~~

~~In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.~~

~~(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.~~

~~(e) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:~~

~~(1) Taxes upon their real estate.~~

~~(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.~~

~~(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).~~

~~The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).~~

~~For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.~~

~~In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.~~

~~The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.~~

~~(4) The tax on ocean marine insurance.~~

~~(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.~~

~~(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the State, other than taxes on income derived from its principal business as attorney in fact.~~

~~A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.~~

~~(g) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.~~

~~(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.~~

~~(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.~~

~~(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this article.~~

SECTION 2916. (a) — The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or and use or other tax imposed by them that is collected for them by the State. Before the Any such contract becomes operative, it shall be authorized by shall be subject to approval

by a majority of those voting on the question in each jurisdiction ~~at a general or direct primary election.~~

[The former subdivision (b) below is addressed by the fiscal reform provisions of this Constitution.]

~~(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.~~

SECTION ~~30~~17. Every tax shall be conclusively presumed to have been paid after 30 years from the time it became a lien unless the property subject to the lien has been sold in the manner provided by the Legislature for the payment of the tax.

SECTION ~~31~~18. The power to tax may not be surrendered or suspended by grant or contract.

SECTION ~~32~~19. No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature.

~~SECTION 33. The Legislature shall pass all laws necessary to carry out the provisions of this Article.~~

SECTION ~~34~~20. Neither the State of California nor any of its political subdivisions local government shall levy or collect a sales or use tax on the sale to or purchase by individuals in this State, ~~of,~~ or the storage, use or other consumption in this State, of food products for human consumption; provided, that this Section shall not apply to restaurants and other similar dining establishments as further provided by law ~~except as provided by statute as of the effective date of this section.~~

SECTION ~~35~~21. (a) Sales and use taxes may be imposed by the Legislature on goods and services, provided, that the aggregate rate shall not exceed three and one-quarter percent without the approval of a majority of the voters voting on the proposition. ~~The people of the State of California find and declare all of the following:~~

(a) Counties (to the extent not imposed by cities therein) and cities may impose up to a one and one-quarter percent sales and use tax for public safety, transportation and other purposes without voter approval.

(b) Counties and cities, and special districts authorized by law to levy such taxes, each may impose up to a one-half percent sales and use tax for health and welfare, public safety, transportation, or other specified purposes with the approval of a

majority of the voters voting on the proposition; provided, that the aggregate amount of such taxes imposed on any transaction shall not exceed one and one-half percent, as further provided by law.

(c) The Legislature, and counties (to the extent not imposed by cities therein) and cities, respectively, with the approval of a majority of the voters voting on the proposition, each may impose up to a one-quarter percent sales and use tax on goods and services that have a material adverse affect on the environment disproportionate to comparable goods or services, as further provided by law. The proceeds of any such taxes shall be applied by the State and by counties and cities, respectively, to acquire, restore, preserve, protect, operate and maintain parks; recreation areas; wilderness areas; coastal and marine areas; open spaces; conservation easements and other similar public lands, properties and facilities, together with the wildlife and plant life therein.

(d) The Legislature, and counties (to the extent not imposed by cities therein) and cities, respectively, with the approval of a majority of the voters voting on the proposition, each may impose up to a three-quarters percent sales and use tax on luxury goods and services, as further provided by law. The proceeds of any such taxes shall be applied by the State and by counties and cities, respectively, for programs, functions and services for the disadvantaged. For purposes of this subdivision (d), luxury goods and services are those that are excessively expensive as compared to other goods and services that have similar functions or purposes.

(e) Except as otherwise provided by law, sales and use taxes shall apply to both goods and services; provided, that such taxes on services shall be at one-half the rate imposed on goods.

(f) To the extent permitted by the Constitution of the United States, sales and use taxes shall apply to sales to parties within the State by parties both within and outside the State. The Legislature shall enact such laws as shall be necessary to impose and collect such taxes.

(g) Any change in the application of the sales and use tax to specific goods and services pursuant to subdivision (e) or (f) shall not be subject to voter approval.

SECTION 22. Local governments shall have no power to provide private businesses with relief from property, sales and use, or other taxes or fees as a condition to or in connection with the location of properties, operations, sales or other facilities in such jurisdiction.

[The provisions of former Section 35 below are addressed by the fiscal reform provisions of this Article.]

~~(1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base.~~

~~(2) — The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.~~

~~(3) — In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.~~

~~(b) — In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:~~

~~(1) — For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.~~

~~(2) — An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of 1/2 percent of the sales price of the property.~~

~~(c) — The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).~~

~~(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:~~

~~(A) — The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.~~

~~(B) — A majority of the county's voters voting thereon approve the addition of this section.~~

~~(2) — Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.~~

~~(e) — Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIIIB or State General Fund proceeds of taxes within the meaning of Article XVI.~~

~~(f) — Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II.~~

SECTION 23. Cities shall not impose a utility users tax on rates or charges for the provision of essential utility services, such as electricity, gas, water, sewer, and waste disposal and recycling services, at a rate in excess of five percent without voter approval as provided by Section 1 of Article XIII A.

SECTION 24. Except as otherwise permitted by this Constitution, the Legislature shall have no power to impose, extend, or increase (including by changing the method of computation) the rate or specified amount of, any State tax or fee without the approval of either: (a) 60 percent of the members of each house of the Legislature by rollcall vote, or (b) a majority of the voters voting on the proposition; provided, that any such imposition, extension or increase shall be for a period of no more than ten years.

ARTICLE XIII A PROPERTY TAX LIMITATIONS

[The provisions of Sections 1 and 2 below are consolidated and are revised to relax the limitations with respect to commercial and business property, but to preserve the protections provided for residential property.]

SECTION 1. (a) The maximum amount of any *ad valorem* tax on real property shall not exceed one percent (1%) of the full cash value of such property. ~~The one percent (1%) tax~~ Such taxes ~~to~~ shall be collected by the ~~each~~ countyies and apportioned according to ~~law~~ pursuant to this Constitution as further provided by law to the ~~districts~~ taxing entities within the ~~such~~ countyies.

(b) ~~The limitation provided for in subdivision (a) shall not apply to~~ *ad valorem* ~~taxes or special assessments (as that term is defined in Section 1 of Article XIII D) levied to pay the principal of and interest and redemption charges on any bonds which of the following:~~

(1) ~~Indebtedness~~ Were approved by the voters prior to July 1, 1978 ~~the date of adoption of this Constitution;~~

(2) ~~Bonded indebtedness~~ Are for the acquisition or improvement ~~capital costs of real property and are approved by the voters on or after July 1, 1978~~ the date of adoption of this Constitution; ~~by two-thirds~~ 60 percent of the votes cast by the voters voting on the proposition; ~~or~~

(3) ~~Bonded indebtedness incurred~~ Are issued by or on behalf of a school district, community college district, or county office board of education for the acquisition, construction, reconstruction, rehabilitation, or replacement, furnishing or equipping of school facilities, including by leasing such facilities, ~~including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities;~~ approved on or after the date of adoption of this Constitution by 55 percent of the voters of the district or county, as appropriate, voting ~~voters voting on the proposition, on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the~~

~~bonded indebtedness includes all of the following accountability requirements:~~

~~(A) A requirement that the proceeds from the sale of the such bonds shall be used only for the purposes specified in Article XIII, Section 1(b) this subdivision (3), and not for any other purpose, including but not limited to teacher and administrator salaries and other school operating expenses.~~

~~(B) The proposition shall include a list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.~~

~~(C) A requirement that the school district board, community college board, or county office board of education shall conduct an annual, independent performance audit to ensure that the funds proceeds have been expended only on the specific projects listed.~~

~~(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.~~

~~(e) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b). "Bonds" for all purposes of this Constitution means bonds, notes or other obligations for borrowed money.~~

SECTION 2. (a) ~~For purposes of this Article, The "full cash value" means the county assessor's valuation fair market value of real property; provided, that for residential property, "full cash value" means the assessed value of such real property as of January 1 2010, excluding any subsequent additions or improvements to such property, and as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of such real property when purchased, newly constructed, or a change in ownership has occurred, after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation.~~

~~(b) For purposes of this section Article, "purchased" and "newly constructed" does shall not include real property that is acquired, constructed or reconstructed to replace real property substantially damaged or destroyed after as a result of a disaster, as declared by the Governor, where the fair market value of the real replacement property, as reconstructed, is comparable to or less than its the fair market value of the damaged or destroyed property immediately prior to the disaster.~~

~~Also, the term "newly constructed" does not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.~~

(c) For purposes of this Article, the terms "purchased," "newly constructed," and "change in ownership" do not include the sale by ~~However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years of her or his current residence and their purchase or construction within two years of a new residence in the State who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser fair market value; provided, that the difference between (1) the fair market value, and (2) the full cash value of the new residence as a result thereof shall not exceed \$1 million (such amount to be adjusted each year in proportion to changes in the cost of living in the State), located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section~~subdivision (c), "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two dwelling unit shall be considered as two separate single family dwellings. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

~~In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.~~

~~The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.~~

(bd) The full cash value base of residential real property may reflect from year to year to be increased in each year by the lesser of (1) two percent, and (2) any increase in the

~~inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer prices in the preceding year index or comparable data for the area county in which such real property is located by reference to reputable and publicly available indices produced by or for the State or federal government.~~

~~(e) The full cash value of real property under taxing jurisdiction, or shall may be reduced to its fair market value, if less than its then-assessed value, to reflect declines in value caused by substantial damage, destruction, or other factors causing a decline in value.~~

~~(e) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:~~

~~(1) The construction or addition of any active solar energy system.~~

~~(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.~~

~~(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single or multiple family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.~~

~~(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).~~

~~(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.~~

~~(df) For purposes of this section Article, the term "change in ownership" does shall not include the acquisition of real property of comparable value as a replacement for real comparable property taken by: if the person acquiring the real property has been displaced from the property replaced by (1) eminent domain proceedings, by acquisition by a public entity, or (2) governmental action that has resulted in a judgment of inverse condemnation, or (3) purchase by a governmental entity in lieu of condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state~~

~~regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.~~

~~(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base-year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.~~

~~(2) — Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985-86 fiscal year and fiscal years thereafter.~~

~~(3) — In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, "affected local agency" means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991-92 fiscal year and fiscal years thereafter.~~

~~(f) — For the purposes of subdivision (e):~~

~~(1) — Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.~~

~~(2) — Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the~~

~~property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.~~

(g) For purposes of subdivision (a) ~~this Article~~, the terms "purchased" and "change in ownership" do not include a purchase, sale or other change of ownership of real property between or among spouses or former spouses or trusts established for the benefit of one or both of them of residential property as further provided by law. ~~include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:~~

~~(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.~~

~~(2) Transfers to a spouse that take effect upon the death of a spouse.~~

~~(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.~~

~~(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.~~

~~(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.~~

~~(h) (1) For purposes of subdivision (a), the terms "purchased" and "change in ownership" do not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first one million dollars (\$1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.~~

~~(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.~~

~~(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or~~

~~grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (1).~~

~~(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:~~

~~(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.~~

~~(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.~~

~~(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term "new construction" does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement~~

~~structure is similar in size, utility, and function to the original structure.~~

~~(2) For purposes of this subdivision, "qualified contaminated property" means residential or nonresidential real property that is all of the following:~~

~~(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is "uninhabitable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is "unusable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.~~

~~(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.~~

~~(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.~~

~~(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.~~

~~(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:~~

~~(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.~~

~~(B) Is a corporate parent, subsidiary, or affiliate of that entity.~~

~~(C) Is an owner of, or has control of, that entity.~~

~~(D) — Is owned or controlled by that entity.~~

~~If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.~~

~~(4) — This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.~~

~~(j) — Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.~~

[The provisions of former Section 3 below are addressed by new Section 24 of Article XII.]

~~SECTION 3. — From and after the effective date of this Article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.~~

SECTION 43. (a) Except as otherwise provided in this Constitution, the proceeds of ad valorem property taxes in each county levied pursuant to Section 1 shall be allocated among the taxing entities in such county based upon the relative number of persons served and the services provided by each such taxing entity pursuant to objective criteria uniformly applied as further provided by law.

(b) A percentage not to exceed ten percent of the proceeds of the property taxes levied pursuant to Section 1 of those counties with comparatively higher aggregate assessed value per capita shall be allocated as provided by law to the remaining counties solely to balance expenditures by school districts per student through the twelfth grade, taking into account the relative cost of living in each county, but only if and to the extent required by Article I of this Constitution or of the Constitution of the United States.

To the extent practicable, allocations of such revenues from and to counties shall be in proportion to the aggregate assessed value per capita of each county. Any additional amounts required by school districts for such purposes shall be provided from State tax and other revenues.

~~Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.~~

~~SECTION 54. Counties and cities may each impose real property transfer taxes for county and city purposes, respectively, of up to one-tenth and two-tenths of one percent, respectively, without voter approval; provided, that in no event shall the aggregate of such taxes exceed one-half of one percent. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article.~~

~~SECTION 65. With the approval of either (a) 60 percent of the members of each house of the Legislature, or (b) a majority of the voters voting on the proposition, in each case prior to July 1, 2015, the Legislature may impose an additional *ad valorem* tax on real property of up to one-tenth of one percent of the full cash value of such property solely for the support of public schools and community colleges. The proceeds of such *ad valorem* property tax in each county shall be allocated by law among the school districts in such county based upon the relative number of persons served and the services provided by each pursuant to objective criteria uniformly applied as further provided by law.~~

~~If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.~~

~~SECTION 76. With the approval of 50 percent of the voters voting on the proposition at a general election, each county (to the extent not imposed by cities therein), city and school district which is authorized to levy or have levied on its behalf *ad valorem* taxes or fees may levy or have levied an additional such tax or fee in an amount not to exceed one-twentieth of one percent of the full cash value of real property in such district for a period of not to exceed ten years. The aggregate amount of all such levies on any parcel of property within a county shall not exceed one-eighth of one percent, as further provided by law. Section 3 of this article does not apply to the California Children and Families First Act of 1998.~~

~~SECTION 7. No (a) levy imposed for school districts pursuant to Section 5 of this Article, (b) supplemental levy imposed for a school district pursuant to Section 6 of this Article, or (c) additional funding from the State pursuant to subdivision (b) of Section 5 of Article VIII, shall be taken into account by the State or local governments in allocating *ad valorem* property tax revenues among taxing entities within counties pursuant to this Article except if and to the extent required with respect to public schools and high schools by Article I of this Constitution or of the Constitution of the United States.~~

ARTICLE XIII B GOVERNMENT SPENDING LIMITATIONS

~~SECTION 1. The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations subject to limitation limit of the entity~~

~~of government for the prior year fiscal period adjusted for the change in the cost of living and the change in population, except as otherwise provided in this Article.~~

SECTION 1.52. The annual calculation of the appropriations ~~limit~~ subject to limitation under this ~~a~~ Article for each entity ~~of local government shall be reviewed as part of an its~~ annual financial audit.

[The provisions of former Section 2 below are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 2. (a) (1) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this Article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI.~~

~~(2) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this Article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.~~

~~(b) All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this Article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.~~

[The remaining Sections of this Article below are consolidated and the protections they provide to taxpayers are significantly expanded.]

SECTION 3. The appropriations ~~limit~~ subject to limitation for any fiscal year period pursuant to Section 1 shall be adjusted as follows:

(a) In the event that ~~the financial responsibility of~~ for providing services is transferred, in whole or in part, whether by annexation, incorporation or otherwise, from one entity ~~of local government to another, then for the year in which such transfer becomes effective the appropriations limit~~ subject to limitation of the transferee entity shall be increased by such reasonable amount as ~~the said such~~ entities local governments shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) ~~In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges~~

~~or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.~~

(eb) (1) In the event an emergency is declared by the Governor or by the legislative body of an entity of a local government, the appropriations in such fiscal period to a special account for expenditures relating to such emergency which are approved by a two-thirds vote of the Legislature or of the legislative body of the local government shall not constitute appropriations limit subject to limitation for such period. ~~of the affected entity of government may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.~~

(2) ~~In the event an emergency is declared by the Governor, appropriations approved by a two-thirds vote of the legislative body of an affected entity of government to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation. As used in this paragraph subdivision (b), "emergency" means the existence, as declared by the Governor, of conditions of disaster or of extreme peril to the safety of persons and property within the State or such local government, or parts thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States war, acts of terrorism, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption.~~

SECTION 4. ~~The dollar amount of the appropriations limit subject to limitation imposed on for any new or existing entity of local government by this Article may shall be established, and for an existing local government may be changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in for a period of not to event exceed four years, with the approval of a majority of the voters voting on the proposition from the most recent vote of said electors creating or continuing such change.~~

SECTION 5. ~~Each entity of The State and each local government may establish such contingency, emergency, unemployment, and reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such funds, including but not limited to the Budget Stabilization Account, and any appropriations therefor, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither wWithdrawals from any such fund or appropriations therefor, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall not for purposes of this Article constitute appropriations subject to limitation.~~

SECTION 5.5. ~~Prudent State Reserve. The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article.~~

SECTION 6. ~~(a) — Whenever the Legislature or any state agency~~ State (a) transfers financial responsibility for an existing program, function or service to; (b) mandates an increase in or expansion of an existing program, function or service by; or (c) mandates a new program, function or service by, higher level of service on any local government, the State shall provide a subvention of funds to reimburse that such local government for the timely payment of the costs to the local government each fiscal period of the such new, increased or expanded program, function or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

- ~~(1) — Legislative mandates requested by the local agency affected.~~
- ~~(2) — Legislation defining a new crime or changing an existing definition of a crime.~~
- ~~(3) — Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.~~

~~(b) (1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law.~~

~~(2) — Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law.~~

~~(3) — Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.~~

~~(4) — This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.~~

~~(5) — This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.~~

~~(c) — A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.~~

SECTION 7. ~~Nothing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness.~~

SECTION 87. As used in this Article ~~and except as otherwise expressly provided herein:~~

(a) ~~"Appropriations subject to limitation" means (1) for of the State, means any authorization to expend during a fiscal year period the proceeds of taxes~~ Revenues ~~levied by or for of the State, exclusive of state subventions for the use and operation of to local governments (other than subventions made pursuant to Section 6), and further exclusive of refunds of taxes, and benefit payments from retirement, unemployment insurance, and disability insurance funds; and (2):~~

~~(b) "Appropriations subject to limitation" of an entity of for each local government, means any authorization to expend during a fiscal year period the proceeds of taxes~~ Revenues of such local government, ~~levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.~~

~~(eb) "Proceeds of taxes~~ Revenues" ~~means shall include, but not be restricted to, (1) all tax revenues, including but not limited to revenues from ad valorem taxes, sales and use taxes, excise taxes and other property taxes, (2) revenues from fees, charges and fines (as those terms are defined in Section 1 of Article XIIID) and any other fees, charges or fines, (3) other recurring revenues, including from the federal government and, in the case of local governments, the State; (4) subventions received by local governments from the State, and (5) revenues from the investment of such amounts, and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, "proceeds of taxes" shall include subventions received from the State, other than pursuant to Section 6, and, with respect to the State, proceeds of taxes shall exclude such subventions.~~

"Revenues" shall not include:

(i) revenues to the State or local governments from a new, expanded or increased federal government program for the first three full years thereof;

(ii) proceeds of taxes approved by the voters pursuant to Section 24 of Article XII for the first two full fiscal periods thereof;

(iii) proceeds of taxes approved by the voters pursuant to Section 1 of Article XIIC for the first three full fiscal periods thereof;

(iv) private bequests, donations or other similar contributions;

(v) non-recurring revenues, including but not limited to developer fees, that are applied to make one-time expenditures, including to reduce bond indebtedness, to pay capital costs, or deposit into a reserve or contingency fund, including without limitation the Budget Stabilization Account;

(vi) a subvention payment made to a local government pursuant to Section 6 of this Article for the first three full fiscal periods thereof; and

(vii) tax increment revenues of redevelopment agencies pursuant to Section 8 of Article XV.

~~(d) "Local government" means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State.~~

~~(ec) (1) "Change in the cost of living" for the State, means a school district, or a community college district means the percentage change in California per capita personal income from the preceding year.~~

~~(2) "Change in the cost of living" for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California average per capita personal income in the State between the two most recent years for which such information is provided by reputable and publicly available indices produced by or for the State or federal government from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.~~

~~(fd) "Change in population" of any entity of government, other than the State, a school district, or a community college district, shall be determined by a method prescribed by the Legislature for the State and each local government (other than school districts) means the change in its population between the two most recent years for which such information is provided by reputable and publicly available indices produced by or for the State or federal government; provided, that the population of the State and each local government shall be adjusted consistent with the most recent national census undertaken by the United States government.~~

~~"Change in population" of for a school district or a community college district shall be means the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year period, as determined by a method prescribed by the Legislature.~~

(e) "Fiscal Period" for all purposes of this Constitution means a two-year period in the case of the State, to commence on July 1 of each even-numbered year, and a fiscal year in the case of local governments.

~~"Change in population" of the State shall be determined by adding (1) the percentage change in the State's population multiplied by the percentage of the State's budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of the State's budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.~~

~~Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.~~

~~(g) — "Debt service" means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.~~

~~(h) — The "appropriations limit" of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the "appropriations limit" of each entity of government for fiscal year 1978-79 is the total of the appropriations subject to limitation of the entity for that fiscal year. For fiscal year 1978-79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.~~

~~(i) — Except as otherwise provided in Section 5, "appropriations subject to limitation" do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the State, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities.~~

~~SECTION 98. "Appropriations subject to limitation" for each entity of government do shall not include:~~

~~(a) Appropriations for debt service the payment of principal of and interest on bonds.~~

~~(b) Appropriations required to comply with unfunded mandates of the State or federal courts or the federal government which, ~~without discretion,~~ require an additional expenditures, for the first two full fiscal periods thereof in the case of the State, and for the first three full fiscal periods thereof in the case of local governments for additional services or which unavoidably make the provision of existing services more costly.~~

~~(c) Appropriations of any new special district for the first three full fiscal periods thereof, which existed on January 1, 1978, and which did not as of the 1977-78 fiscal~~

~~year levy an *ad valorem* tax on property in excess of 12 1/2 cents per \$100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.~~

~~(dc) Appropriations to pay capital costs for all qualified capital outlay projects, as defined by the Legislature.~~

~~(e) Appropriations of revenues from rates (as that term is defined in Section 1 of Article XIIID) of a proprietary business service, which are derived from any of the following:~~

~~(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents (\$0.09) per gallon.~~

~~(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).~~

~~(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990.~~

~~SECTION 10.9. The Legislature, with the approval of: (a) 60 percent of the members of each house, and (b) a majority of the voters voting on the proposition, may enact a specific, narrowly-defined exception to the appropriations subject to limitation to further a compelling public purpose but which is consistent with the intents and purposes hereof. This Article shall be effective commencing with the first day of the fiscal year following its adoption.~~

~~SECTION 10.5. For fiscal years beginning on or after July 1, 1990, the appropriations limit of each entity of government shall be the appropriations limit for the 1986-87 fiscal year adjusted for the changes made from that fiscal year pursuant to this Article, as amended by the measure adding this section, adjusted for the changes required by Section 3.~~

~~SECTION 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held invalid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect.~~

~~SECTION 12. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988.~~

~~SECTION 13. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the California Children and Families First Trust Fund created by the California Children and Families First Act of 1998. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Children and Families First Trust Fund. The surtax created by the California Children and Families First Act of 1998 shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI.~~

ARTICLE XIII C VOTER APPROVAL FOR LOCAL TAX LEVIESES

[The provisions of this Article are consolidated, the super-majority approval requirement is significantly expanded to apply to all taxes and fees and not just to special taxes, and the super-majority approval requirement for special taxes is revised to 60 percent.]

~~SECTION 1. Definitions. As used in this Article:~~

- ~~(a) "General tax" means any tax imposed for general governmental purposes.~~
- ~~(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.~~
- ~~(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.~~
- ~~(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.~~

~~SECTION 21. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:~~

- ~~(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.~~
- ~~(b) No Except as otherwise provided by this Constitution, no local government authorized by law to impose a tax or fee may impose, extend, or increase (including by changing the method of computation) the rate or specified amount of, any such general tax or fee unless and until that tax such action is submitted to the electorate and approved by a majority 60 percent vote of the voters voting on the proposition at a general election; provided, that such imposition, extension or increase shall be for a period of no more than ten years. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing~~

body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) — Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this Article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this Article and in compliance with subdivision (b).

(d) — No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

~~SECTION 32. Initiative Power for Local Taxes, Assessments, Fees and Charges. By majority vote, the voters shall have the power to repeal by initiative any tax that was imposed by a local government without voter approval prior to the date of adoption of this Constitution unless such tax is expressly authorized to be imposed hereunder without voter approval. Such initiative may be instituted by presenting a petition prior to July 1, 2012, which is certified to have been signed by voters equal in number to five percent of the votes cast for all candidates for Governor at the last gubernatorial election. The Legislature shall provide by law the procedures for such initiatives. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.~~

**ARTICLE XIID LIMITATIONS ON ASSESSMENT AND PROPERTY-RELATED
FEE REFORM LOCAL GOVERNMENT EXACTIONS**

[The provisions of this Article are consolidated and the protections provided to taxpayers, ratepayers, homeowners and residents are significantly expanded.]

~~SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this Article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this Article or Article XIIC shall be construed to:~~

- (a) — Provide any new authority to any agency to impose a tax, assessment, fee, or charge.
- (b) — Affect existing laws relating to the imposition of fees or charges as a condition of property development.
- (c) — Affect existing laws relating to the imposition of timber yield taxes.

SECTION 21. Definitions.—As used in this Article and except as otherwise provided below:

(a) ~~"Agency" means any local government as defined in subdivision (b) of Section 1 of Article XIII.~~

~~(b) "Assessment" means any levy or charge other similar payment obligation imposed upon real property by an agency authorized local government for a special benefit conferred upon the real property for capital costs or maintenance and operation expenses. "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."~~

~~(eb) "Capital cost" for all purposes of this Constitution means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement, excluding costs for public employees by an agency.~~

~~(dc) "Charge" means any payment obligation imposed by a local government for general governmental functions or services.~~

~~(d) "District" means an area determined by an agency a local government to contain all parcels which will receive a special benefit from a proposed permanent public improvement or property related service.~~

~~(e) "Fee" or "charge" means any levy or other similar payment obligation, excluding other than an *ad valorem* tax, a special tax, a charge, a rate or an assessment, imposed by an agency upon a parcel property or upon a persons as an incident of property ownership, including a user fee or charge for a property related service.~~

~~(f) "Fine" means a monetary penalty imposed on individuals by a local government for minor parking or traffic infractions.~~

~~(g) "Maintenance and operation expenses" means the costs of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public public property, facilities or improvements.~~

~~(gh) "Proprietary business service" for all purposes of this Constitution includes public water, wastewater, storm water, drainage, irrigation, electric, natural gas and waste disposal services, but excludes public ports and airports. "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.~~

~~(hi) "Rate" means a payment obligation, other than an assessment, a charge or a fee, imposed upon persons or property for the provision by a local government of a proprietary business service. "Property related service" means a public service having a direct relationship to property ownership.~~

(i) "Special benefit" means a particular and distinct benefit to real property over and above any general benefits conferred on real property located in the district or to the public at large.—General enhancement of property value does not constitute "special benefit."

~~SECTION 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:~~

~~(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.~~

~~(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.~~

~~(3) Assessments as provided by this Article.~~

~~(4) Fees or charges for property related services as provided by this Article.~~

~~(b) For purposes of this Article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.~~

~~SECTION 42. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. The aggregate amount of the assessments imposed for public capital improvements on all parcels in the district shall not exceed the capital costs or the maintenance and operation expenses, respectively, of the permanent public improvement. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency local government, the State of California or the United States shall not be exempt from assessment unless the agency local government can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.~~

~~(b) In any legal action contesting the validity of any assessment, the burden shall be on the local government to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is no greater than the special benefits conferred on the property or properties in question, and generally proportionate to the assessments imposed on the other parcels in the district.~~

[The former provisions of this Section below are enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

~~(b) — All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.~~

~~(c) — The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.~~

~~(d) — Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.~~

~~(e) — The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.~~

~~(f) — In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.~~

~~(g) — Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote~~

~~of the electorate in the district in addition to being approved by the property owners as required by subdivision (c).~~

SECTION 53. (a) No charge imposed by a local government shall exceed the incremental cost of the specific service provided as reasonably determined by the local government.

~~(b) No local government shall impose a charge for general governmental functions or services, including but not limited to police, fire, and library services. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this Article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this Article. Notwithstanding the foregoing, the following assessments existing on the effective date of this Article shall be exempt from the procedures and approval process set forth in Section 4:~~

~~(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.~~

~~(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.~~

~~(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.~~

~~(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4.~~

SECTION 64. The imposition of any fee by a local government shall be subject to approval by a 60 percent vote of (a) the electors of the local government, or (b) the more limited area in which such fees are imposed.

~~Property Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this Article, including, but not limited to, the following:~~

~~(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified~~

~~parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.~~

~~(2) — The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.~~

SECTION 5. Local governments shall not impose fines on individuals that exceed a nominal amount, and in any event that exceed the gross wages of a person who (a) works two hours in the case of parking fines, and (b) four hours in the case of traffic fines, at the minimum wage of general application. Local governments shall permit public service to be performed in lieu of any fine.

SECTION 6. Local governments shall not impose rates in the aggregate that exceed the costs, including but not limited to debt service costs and reasonable reserves, of providing or making available the proprietary business service, all as reasonably determined by the local government.

~~(b) — Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:~~

~~(1) — Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service.~~

~~(2) — Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.~~

~~(3) — The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.~~

~~(4) — No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.~~

~~(5) — No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where~~

~~the service is available to the public at large in substantially the same manner as it is to property owners. Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this Article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.~~

~~(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.~~

~~(d) Beginning July 1, 1997, all fees or charges shall comply with this section.~~

SECTION 7. The Legislature, with the approval of (a) 60 percent of the members of each house, and (b) a majority of the voters voting on the proposition, may enact a specific, narrowly-defined exception to the limitations imposed by this Article to further a compelling public purpose but which is consistent with the intents and purposes hereof.

ARTICLE XIV LABOR RELATIONS

SECTION 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers.

[The provisions of former Section 2 below are outdated.]

~~SECTION 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this Section.~~

SECTION 32. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

SECTION 43. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and

general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the state government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the State in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained ~~herein~~ in this Article shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

[The provisions of former Section 5 below are outdated.]

~~SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for-profit organizations, entities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.~~

~~(b) — No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.~~

~~(c) — Nothing in this section shall be interpreted as creating a right of inmates to work.~~

[The former Article XV below is enacted into law and thereby preserved.]

[ARTICLE XV USURY]

~~SECTION 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:~~

~~(1) — For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or~~

~~(2) — For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).~~

~~No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the~~

~~interest authorized by this section upon any loan or forbearance of any money, goods or things in action.~~

~~However, none of the above restrictions shall apply to any obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this Article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.~~

~~The rate of interest upon a judgment rendered in any court of this State shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.~~

~~In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the State shall be 7 percent per annum.~~

~~The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.~~

ARTICLE ~~XVIXV~~ PUBLIC FINANCE

SECTION 1. (a) The State and every local government shall be responsible and accountable to the people for the proper application and use of public funds and properties, including proceeds of bonds, to and for the programs, functions, projects and purposes for which they are authorized or approved.

(b) The State, including each of its departments and agencies, and each local government shall adopt policies and procedures, including for detailed annual auditing and public reporting, to ensure the proper application and use of public funds and properties. Any improper application or use of public funds or properties shall be reimbursed within one fiscal period by the State or local government, respectively, to the program, project, function or purpose for which they were authorized or approved and from the program, function, project or purpose for which they were improperly used or applied.

(c) Any public official or public employee who intentionally approves, directs, causes or permits any such misapplication or misuse of public funds or properties shall be guilty of a crime as further provided by law.

(d) Residents of the State and of each local government, respectively, shall have standing to enforce the provisions of this Section in State court.

[The provisions of former Section 1 below are outdated or are addressed by new Section 10, among others.]

~~The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for~~

~~and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.~~

~~Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.~~

~~Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.~~

~~The provisions of Senate Bill No. 763 of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified.~~

[The provisions of former Section 1.3 below are addressed by new Section 18 of Article IV and new Section 10, among others.]

~~SECTION 1.3.(a) — For the purposes of Section 1, a "single object or work," for which the Legislature may create a debt or liability in excess of three hundred thousand dollars (\$300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.~~

~~(b) — As used in subdivision (a), "accumulated state budget deficit" means the aggregate of both of the following, as certified by the Director of Finance:~~

~~(1) — The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).~~

~~(2) — Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.~~

~~(c) — Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this Article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, "year-end state budget deficit" does not include an obligation within the accumulated state budget deficit as defined by subdivision (b).~~

[The provisions of the former Section 1.5 below are addressed in part by new Section 1 of this Article, among others.]

~~SECTION 1.5. — The Legislature may create and establish a "General Obligation Bond Proceeds Fund" in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the "General Obligation Bond Proceeds Fund." Accounts shall be maintained in the "General Obligation Bond Proceeds Fund" of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the "General Obligation Bond Proceeds Fund" pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the "General Obligation Bond Proceeds Fund" which constitute the proceeds of the particular bond fund being re-established.~~

SECTION 2. (a) — No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted by the Legislature to the electors in the form of a bond act or statute.

[The provisions of former subdivisions (b) and (c) below are outdated.]

~~(b) — The provisions of this Constitution enumerated in subdivision (c) of this Section are repealed and such provisions are continued as statutes which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.~~

~~(c) — The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 4 1/2, 5, 6, 8, 8 1/2, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21.~~

[The provisions of former Sections 3 and 4 below are addressed by new Sections 3 and 4 of this Article.]

~~SECTION 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:~~

~~(1) — Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.~~

~~(2) — The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.~~

~~(3) — The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.~~

~~(4) — The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.~~

~~(5) — The State shall have at any time the right to inquire into the management of such institutions.~~

~~(6) — Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.~~

~~An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.~~

~~SECTION 4. — The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.~~

~~No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section.~~

[The former provisions of new Section 3 below are addressed by Section 4 of Article I and new Section 4 of this Article.]

~~SECTION 53. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation local government, shall ever make an appropriation, or pay from have the power or authority to lend, give or grant any public funds or other property whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed.~~

~~church or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature or local governments from granting aid pursuant to Section 3-4 of this Article XVI.~~

SECTION 64. (a) Except as otherwise provided in this Constitution, the Legislature State and local governments shall have no power to give or to lend, or to authorize the giving or lending of, the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established local government, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it they have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this Section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it the State and local governments shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder own stock or have any similar right or interest in any private (as opposed to governmental) company, association or corporation whatever.;

(b) Nothing contained in this Constitution shall prohibit:

(1) State and local governments from providing loans, gifts, grants, guaranties or other aid to: (A) the poor, infirm, aged, sick, disabled, addicted, mentally ill, homeless, abused, orphaned, destitute or unemployed; (B) veterans who served in any branch of the military of the United States during time of war or major conflict; (C) those affected by a major catastrophe or disaster whether of natural or human origin; and (D) nonprofit organizations and institutions solely for the purposes of serving such persons.

(2) A local government authorized by law to provide a proprietary business service from acquiring for its uses and purposes properties, systems, works, facilities, rights and franchises through the acquisition of stock or other interest in a private company, association or corporation which provides such proprietary business service.

(3) A local government from joining with other local governments in providing for the payment of workers' compensation, unemployment compensation, tort liability or public liability losses incurred by such local governments by entry into insurance pooling arrangements.

[The provisions of former Sections 6, 10, 11 and 13 below are consolidated into and are addressed by new Section 4 of this Article.]

~~provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is~~

~~the owner of, or which holds the title to the part of such system situated in a foreign country;~~

~~provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and~~

~~Provided, further, that this Section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly owned nonprofit corporation or other public agency as may be authorized by the Legislature; and~~

~~Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and~~

~~Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.~~

~~And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last~~

~~Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.~~

SECTION 75. Money may be drawn from the State Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.

[The provisions of former Section 8 below are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education:~~

~~(b) Commencing with the 1990-91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:~~

~~(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIIB, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87.~~

~~(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIB and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIIB. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.~~

~~(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIB and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.~~

~~(B) In addition, an amount equal to one half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIIB and allocated local proceeds of taxes, excluding any~~

~~revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.~~

~~(C) — This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one-half of one percent.~~

~~(c) — In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.~~

~~(d) — In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.~~

~~(e) — The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.~~

~~(f) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.~~

~~(h) — Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.~~

[The provisions of former Section 8.5 below are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 8.5.(a) — In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIIB to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.~~

~~(1) — With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.~~

~~(2) — With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of the California Community Colleges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for community colleges.~~

~~(b) — Notwithstanding the provisions of Article XIIB, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.~~

~~(c) — From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.~~

~~(d) — All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.~~

~~(e) — Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.~~

[The provisions of former Sections 9 through 11 and 13 below are outdated or are addressed by the fiscal reform provisions of this Constitution.]

~~SECTION 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto.~~

~~SECTION 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, co-operation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.~~

~~The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20 of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization.~~

~~SECTION 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper.~~

~~SECTION 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons.~~

SECTION 146. The Legislature may provide for the issuance by the State of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities; cogeneration facilities, renewable energy facilities and any other facilities and technologies including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities or loan of proceeds of such revenue bonds to persons, associations, or corporations, other than

~~municipal corporations private parties; provided, that such revenue bonds shall not be secured by the tax and other revenues or the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article 13 and Sections 1 and 2 of Article 16, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained in this Section shall authorize any public agency the State to operate any industrial or commercial enterprise.~~

[The provisions of former Section 14.5 below are consolidated into new Section 6 of this Article.]

~~SECTION 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this Article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise.~~

~~SECTION 157. A public body local government authorized to issue securities bonds to provide public parking facilities and any other public body local government whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security.~~

[The provisions of former Section 16 below are consolidated in new Section 8 of this Article.]

~~SECTION 168. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by reason of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this Article, and those taxes (the word "taxes" as used herein includes, but is not limited to, all levies on an *ad valorem* basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.~~

The Legislature may provide that any redevelopment plan adopted by a redevelopment agency established by law may contain include a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State or any local government of California, any city, county, city and county, district or other public corporation (hereinafter sometimes called ("taxing agencies")) after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid ~~(for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and~~

(b) Except as provided in subdivisions (c) and (d), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or ~~indebtedness bonds~~ (whether funded, refunded, assumed or otherwise) ~~incurred~~ issued by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the redevelopment project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and ~~indebtedness bonds~~, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax ~~rate~~ levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any ~~bonded indebtedness bonds~~ for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. ~~This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.~~

(d) Redevelopment agencies shall not be entitled to or allocated any of the additional incremental revenues from *ad valorem* property taxes or fees attributable to:

(1) The amendments in this Constitution to former Section 2 of Article XIII A;

(2) Any levies approved by the voters pursuant to Sections 5 or 6 of Article XIII A; or

(3) Any other new, increased or expanded ad valorem property taxes or fees approved by the voters or otherwise imposed pursuant to the provisions of this Constitution.

~~The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.~~

~~It is intended by this Section to empower any redevelopment agency, city, county, or city and county under any law authorized by this Section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This Section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.~~

~~The Legislature shall enact those laws as may be necessary to enforce implement the provisions of this Section.~~

[The provisions of former Section 17 below are consolidated into new Section 4 of this Article.]

~~SECTION 179. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.~~

~~Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:~~

~~(a) The retirement board governing body ("board") of a public pension or retirement system ("system") shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive~~

purposes of providing benefits to participants in the ~~pension or retirement~~ system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the ~~retirement~~ each board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the ~~retirement~~ board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with ~~these~~ such matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the ~~retirement~~ board of a public pension or retirement system board shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The ~~retirement~~ board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the ~~public pension or retirement~~ system.

~~(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.~~

~~(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this Section.~~

~~(h) As used in this Section, the term "retirement board" shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term "retirement board" shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system.~~

SECTION 1810. (a) — Except as otherwise provided in this Constitution, neither the State nor any No county, city, town, township, board of education, or school district, local government shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of a majority, in the case of the State, and two-thirds60 percent, in the case of local governments, of the voters of the public entity voting on the proposition, at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor and, in the case of local governments, unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the principal of and interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which maturity shall not exceed forty years from the time of contracting the indebtedness. Proceeds of bond indebtedness shall be applied solely to pay capital costs. This section shall not apply to bonds issued by local governments that are payable solely from rates (as that term is defined in Section 1 of Article XIIID) and other non-tax revenues of a proprietary business service.

[The former subdivision (b) below is addressed by the fiscal reform provisions of this Constitution.]

~~(b) — Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.~~

~~(c) — When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two thirds or a majority or 55 percent of the voters, as the case may be, voting on any one of these propositions, vote in favor thereof, the proposition shall be deemed adopted.~~

[The former Section 19 below is addressed by new Section 2 of Article XIIID.]

~~SECTION 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the~~

~~acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.~~

~~Notwithstanding any provisions for debt limitation or majority protest as in this Section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.~~

~~Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both.~~

SECTION 2011. (a) The Budget Stabilization Account is hereby created and shall be maintained in the General Fund. The Legislature shall budget and appropriate and the Controller shall transfer funds in each fiscal period such that the average balance in such Account during each three full fiscal periods is equal to at least five percent of the average General Fund expenditures for such three fiscal periods. The Legislature shall provide by law for the initial funding of such Account over not to exceed three fiscal periods.

~~(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:~~

~~(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006-07 fiscal year.~~

~~(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007-08 fiscal year.~~

~~(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.~~

~~(e) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the~~

~~General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars (\$8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.~~

~~(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.~~

~~(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.~~

~~(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).~~

~~(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund.~~

ARTICLE XVIII ~~AMENDING AND REVISING THE THIS~~ CONSTITUTION

SECTION 1. (a) The Legislature by rollcall vote entered in the journal, two-thirds~~60 percent~~ of the membership of each house concurring, may propose an amendment ~~or revision of the this~~ Constitution and in the same manner may amend or withdraw its proposal.

(b) The Governor may propose to the Legislature amendments to this Constitution which shall be submitted to the voters if approved by 60 percent of the membership of each house.

(c) Each amendment shall be so prepared and submitted that it can be voted on separately.

SECTION 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise this Constitution. If the majority vote yes on that question, within ~~6~~six months the Legislature shall provide for the convention. Delegates to a

constitutional convention shall be one or more voters elected from districts as nearly equal in population as may be practicable each Assembly district as further provided by law.

SECTION 3. ~~The electors may amend the Constitution by initiative.~~

SECTION 4. ~~A proposed amendment to this Constitution approved by the Legislature or revision shall be submitted to the electors and if approved by a majority of votes two-thirds of the voters voting on the proposition thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2-two or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.~~

ARTICLE XIXXVII MOTOR VEHICLE TAX AND FEE REVENUES

SECTION 1. (a) ~~Revenues from A separate taxes or fee may be imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways; provided, that such tax or fee shall not exceed 20 cents per gallon (such amount to be adjusted each year in proportion to changes in the cost of living in the State) without voter approval.~~

(b) ~~Revenues from such taxes and fees over and above the costs of collection and any refunds authorized by law, shall be used for the following purpose allocated as follows:ses:~~

(1) 60 percent to the State;

(2) 25 percent to counties;

(3) 15 percent to cities.

(c) ~~The portions of such revenues for counties and cities, respectively, shall be allocated as provided by law among cities and counties, respectively, pursuant to objective criteria uniformly applied based on:~~

(1) Population;

(2) Miles of streets and highways (including those for which snow removal may be required); and

(3) Number of registered motor vehicles.

(ad) ~~Proceeds of such taxes shall be used and applied for theThe research, planning, construction, and improvement (including payment for any property taken or damaged for such purposes, and any required mitigation of adverse environmental effects); maintenance, and operation of:~~

(1) Public streets and highways, and the maintenance and operation thereof;

(2) Public mass transit system facilities and equipment; (and

~~(3) their rRelated public facilities, for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes.~~

(e) Counties and cities may pledge and apply up to 50 percent of such revenues to capital costs for facilities and improvements listed in subdivision (d) with the approval of a majority of the voters voting on the proposition.

~~(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right of way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services.~~

SECTION 2. (a) Revenues from fees and tA separate taxes or fee may be imposed by the State upon vehicles or their use or operation at a rate not to exceed sixty-five hundredths of one percent of the fair value thereof without voter approval,

(b) Revenues from such taxes and fees over and above the costs of collection and any refunds authorized by law, shall be allocated as follows:

(1) 50 percent to the State;

(2) 40 percent to counties; and

(3) 10 percent to cities.

(c) The portions of such revenues for counties and cities, respectively, shall be allocated as provided by law among cities and counties, respectively, per capita based on population, as further provided by law.

(d) The State shall use and apply such revenues forused for the following purposes:

(a1) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies; and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(be) Counties and cities shall use and apply such revenues for health and welfare, public mass transit system operation and maintenance expenses, or such other purposes as they shall determine in their discretion.~~The purposes specified in Section 1 of this article.~~

[The provisions of former Sections 3 and 4 are addressed by Sections 1 and 2.]

~~SECTION 3. The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan.~~

~~SECTION 4. The Legislature may impose an additional tax or fee of up to sixty-five hundredths of one percent of their fair value on non-commercial passenger vehicles or their use or operation the fuel economy of which is below the average for all non-commercial passenger vehicles without voter approval. The revenues from such taxes and fees shall be allocated, used and applied as provided by Section 1. Such revenues may also be used and applied by counties and cities to fund operating and maintenance expenses of public mass transit systems. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1.~~

~~SECTION 5. The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes.~~

[The provisions of former Sections 6 and 7 below are addressed by, among others, new Section 18 of Article IV, except as provided by Section 13 of the transitional provisions.]

~~SECTION 6. The tax revenues designated under this article may be loaned to the General Fund only if one of the following conditions is imposed:~~

- ~~(a) That any amount loaned is to be repaid in full to the fund from which it was borrowed during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the fund from which it was borrowed within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, adjusted for the change in the cost of living and the change in population, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~(c) Nothing in this section prohibits the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this subdivision shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.~~

~~SECTION 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes.~~

[The provisions of former Sections 8 and 9 below are addressed by new Section 1 of new Article XV.]

~~SECTION 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.~~

~~SECTION 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the State to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands. As used in this section, "coastal zone" means "coastal zone" as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977.~~

[The provisions of former Article XIXA below are addressed by, among others, new Section 18 of Article IV, except as provided by Section 13 of the transitional provisions.]

**ARTICLE XIXA ~~LOANS FROM THE PUBLIC TRANSPORTATION ACCOUNT
OR LOCAL TRANSPORTATION FUNDS~~**

~~SECTION 1. The funds in the Public Transportation Account in the State Transportation Fund, or any successor to that account, may be loaned to the General Fund only if one of the following conditions is imposed:~~

~~(a) That any amount loaned is to be repaid in full to the account during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~

~~(b) That any amount loaned is to be repaid in full to the account within three fiscal years from the date on which the loan was made and one of the following has occurred:~~

~~(1) The Governor has proclaimed a state of emergency and declares that the emergency will result in a significant negative fiscal impact to the General Fund.~~

~~(2) The aggregate amount of General Fund revenues for the current fiscal year, as projected by the Governor in a report to the Legislature in May of the current fiscal year, is less than the aggregate amount of General Fund revenues for the previous fiscal year, as specified in the budget submitted by the Governor pursuant to Section 12 of Article IV in the current fiscal year.~~

~~SECTION 2. (a) As used in this section, a "local transportation fund" is a fund created under Section 29530 of the Government Code, or any successor to that statute.~~

~~(b) All local transportation funds are hereby designated trust funds.~~

~~(c) A local transportation fund that has been created pursuant to law may not be abolished.~~

~~(d) Money in a local transportation fund shall be allocated only for the purposes authorized under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code and Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code, as those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a local transportation fund for purposes other than those specified in this subdivision.~~

[The provisions of former Article XIXB below are addressed by, among others, new Section 18 of Article IV, except as provided by Section 13 of the transitional provisions.]

**~~ARTICLE XIXB MOTOR VEHICLE FUEL SALES TAX REVENUES AND
TRANSPORTATION IMPROVEMENT FUNDING~~**

~~SECTION 1. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.~~

~~(b) (1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.~~

~~(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:~~

~~(A) Public transit and mass transportation.~~

~~(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.~~

~~(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.~~

~~(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.~~

~~(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:~~

~~(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).~~

~~(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).~~

~~(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).~~

~~(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).~~

~~(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:~~

~~(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.~~

~~(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.~~

~~(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.~~

~~(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.~~

~~(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.~~

~~(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).~~

~~(f) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code,~~

~~shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.~~

~~(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).~~

ARTICLE ~~XXXVIII~~ MISCELLANEOUS SUBJECTS

[The provisions of former Section 1 below are outdated and otherwise addressed by Section 6 of Article X.]

~~SECTION 1. Notwithstanding the provisions of Section 6 of Article XI, the County of Sacramento and all or any of the cities within the County of Sacramento may be consolidated as a charter city and county as provided by statute, with the approval of a majority of the electors of the county voting on the question of such consolidation and upon such other vote as the Legislature may prescribe in such statute. The charter City and County of Sacramento shall be a charter city and a charter county. Its charter city powers supersede conflicting charter county powers.~~

SECTION 1.5. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

~~SECTION 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10 and 15 of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect.~~

SECTION 32. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

~~"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows: _____ (If no affiliations, write in the words "No Exceptions") and that during such time as I hold the office of _____ I will not advocate nor become (name of office) a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means."~~

~~And n~~No other oath, declaration, or test, shall be required as a qualification for any public office or employment.

"Public officer and employee" includes every officer and employee of the State, including but not limited to the University of California, and every county, city, city and county, district, and authority local government, including and any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing.

SECTION 43. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges.

~~SECTION 5. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed.~~

[The provisions of former Section 6 below are addressed by new Section 7 of Article III.]

~~SECTION 6. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Constitution, be entitled to retirement benefits and compensation as if the term of office had not been so reduced.~~

[The provisions of former Section 7 below are outdated.]

~~SECTION 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term.~~

[The provisions of former Section 22 below are consolidated in new Section 4 of this Article.]

SECTION 224. (a) ~~The State of California, subject to the internal revenue applicable laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.~~

~~(b) All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:~~

~~(a) For bona fide public eating places, as defined by the Legislature.~~

~~(b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.~~

~~(c) For public premises for the sale and service of beers alone.~~

~~(d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.~~

(c) The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

[The provisions of former Section 22 below are enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

~~The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may~~

~~appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.~~

~~The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.~~

~~The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.~~

~~When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.~~

~~A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.~~

~~Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants,~~

~~cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.~~

~~The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.~~

~~The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.~~

~~The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.~~

~~All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.~~

~~The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.~~

~~This amendment shall become operative on January 1, 1957.~~

SECTION 235. Every person, company, corporation or other legal entity that operates a gambling enterprise in this State, including but not limited to casino-style gambling, shall prohibit any person under the age of 21 years from participating in such gambling. Any failure to do so shall be punishable by such civil and criminal penalties as shall be provided by law. Notwithstanding any other provision of this Constitution, the Speaker of the Assembly shall be an ex officio member, having equal rights and duties with the nonlegislative members, of any state agency created by the Legislature in the field of public higher education which is charged with the management, administration, and control of the State College System of California.

**ARTICLE ~~XXI~~IVA REDISTRICTING OF SENATE, ASSEMBLY,
CONGRESSIONAL AND BOARD OF EQUALIZATION DISTRICTS**

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of congressional districts in conformance with the following standards and process:

- (a) Each member of Congress shall be elected from a single-member district.
- (b) The population of all congressional districts shall be reasonably equal. After following this criterion, the Legislature shall adjust the boundary lines according to the criteria set forth and prioritized in paragraphs (2), (3), (4), and (5) of subdivision (d) of Section 2. The Legislature shall issue, with its final map, a report that explains the basis on which it made its decisions in achieving compliance with these criteria and shall include definitions of the terms and standards used in drawing its final map.
- (c) Congressional districts shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.
- (d) The Legislature shall coordinate with the Citizens Redistricting Commission established pursuant to Section 2 to hold concurrent hearings, provide access to redistricting data and software, and otherwise ensure full public participation in the redistricting process. The Legislature shall comply with the open public hearing meetings and hearings and the public records requirements set forth in the implementing legislation for this Article, as supplemented and amended of paragraphs (1), (2), (3), and (7) of subdivision (a) of, and subdivision (b) of, Section 8253 of the Government Code, or its successor provisions of statute.

SECTION 2. (a) The Citizens Redistricting Commission shall draw new district lines (also known as "redistricting") for State Senate, Assembly, and Board of Equalization districts. This commission shall be created no later than December 31 in 2010, and in each year ending in the number zero thereafter.

- (b) The Citizens Redistricting Commission (hereinafter the "commission") shall:
 - (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines; (2) draw district lines according to the redistricting criteria specified in this Article; and (3) conduct themselves with integrity and fairness.
- (c) (1) The selection process is designed to produce a Citizens Redistricting Commission that is independent from legislative influence and reasonably representative of this State's diversity.
 - (2) The Citizens Redistricting Commission shall consist of 14 members, as follows: five who are registered with the largest political party in California based on registration, five who are registered with the second largest political

party in California based on registration, and four who are not registered with either of the two largest political parties in California based on registration.

(3) Each commission member shall be a voter who has been continuously registered in California with the same political party or unaffiliated with a political party and who has not changed political party affiliation for five or more years immediately preceding the date of his or her appointment. Each commission member shall have voted in two of the last three statewide general elections immediately preceding his or her application.

(4) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission.

(5) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action. The three final maps must be approved by at least nine affirmative votes which must include at least three votes of members registered from each of the two largest political parties in California based on registration and three votes from members who are not registered with either of these two political parties.

(6) Each commission member shall apply this Article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible for a period of ~~10~~ ten years beginning from the date of appointment to hold elective public office at the federal, state, county, or city level in this State. A member of the commission shall be ineligible for a period of five years beginning from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staff for the Legislature or any individual legislator or to register as a federal, state, or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, and State Board of Equalization pursuant to a mapping process using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Senate, Assembly, and State Board of Equalization districts shall have reasonably equal population with other districts for the same office, except where deviation is required to comply with ~~the federal Voting Rights Act or allowable by-law.~~

(2) Districts shall comply with the federal Voting Rights Act (42 U.S.C. Sec. 1971 and following).

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any city, county, city and county, neighborhood, or community of interest shall be respected to the extent possible without violating the requirements of any of the preceding

subdivisions. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, and where this does not conflict with the criteria above, districts shall be drawn ~~to encourage~~ which are geographically compact ~~ness~~ ~~such~~ that nearby areas of population are not bypassed for more distant populations.

(6) To the extent practicable, and where this does not conflict with the criteria above, each Senate district shall be comprised of two whole, complete, and adjacent Assembly districts, and each Board of Equalization district shall be comprised of ~~10~~ ten whole, complete, and adjacent Senate districts.

(e) The place of residence of any incumbent or political candidate shall not be considered in the creation of a map. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.

(f) Districts for the Senate, Assembly, and State Board of Equalization shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By September 15 in 2011, and in each year ending in the number one thereafter, the commission shall approve three final maps that separately set forth the district boundary lines for the Senate, Assembly, and State Board of Equalization districts. Upon approval, the commission shall certify the three final maps to the Secretary of State.

(h) The commission shall issue, with each of the three final maps, a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed in subdivision (d) and shall include definitions of the terms and standards used in drawing each final map.

(i) Each certified final map shall be subject to referendum in the same manner that a statute is subject to referendum pursuant to Section 9 of Article II. The date of certification of a final map to the Secretary of State shall be deemed the enactment date for purposes of Section 9 of Article II.

(j) If the commission does not approve a final map by at least the requisite votes or if voters disapprove a certified final map in a referendum, the Secretary of State shall immediately petition the Supreme Court for an order directing the appointment of special masters to adjust the boundary lines of that map in accordance with the redistricting criteria and requirements set forth in subdivisions (d), (e), and (f). Upon its approval of the masters' map, the court shall certify the resulting map to the Secretary of State, which map shall constitute the certified final map for the subject type of district.

SECTION 3. (a) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the Legislature if it determines that funds or other resources provided for the operation of the commission are not adequate. The Legislature shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the Attorney General or other legal counsel retained by the commission shall assist in the defense of a certified final map.

(b) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged.

(2) Any registered voter in this state may file a petition for a writ of mandate or writ of prohibition, within 45 days after the commission has certified a final map to the Secretary of State, to bar the Secretary of State from implementing the plan on the grounds that the filed plan violates this Constitution, the United States Constitution, or any federal or state statute.

(3) The Supreme Court shall give priority to ruling on a petition for a writ of mandate or a writ of prohibition filed pursuant to subdivision (2). If the court determines that a final certified map violates this Constitution, the United States Constitution, or any federal or state statute, the court shall fashion the relief that it deems appropriate.

[The provisions of former Article XXII below are addressed by new Sections 11 and 12 of new Article X.]

~~ARTICLE XXII ARCHITECTURAL AND ENGINEERING SERVICES~~

~~SECTION 1. The State of California and all other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, shall be allowed to contract with qualified private entities for architectural and engineering services for all public works of improvement. The choice and authority to contract shall extend to all phases of project development including permitting and environmental studies, rights-of-way services, design phase services and construction phase services. The choice and authority shall exist without regard to funding sources whether federal, state, regional, local or private, whether or not the project is programmed by a state, regional or local governmental entity, and whether or not the completed project is a part of any state-owned or state-operated system or facility.~~

~~SECTION 2. Nothing contained in Article VII of this Constitution shall be construed to limit, restrict or prohibit the State or any other governmental entities, including, but not limited to, cities, counties, cities and counties, school districts and other special districts, local and regional agencies and joint power agencies, from contracting with private entities for the performance of architectural and engineering services.~~

[The former Article XXXIV below is enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition.]

[ARTICLE XXXIV PUBLIC HOUSING PROJECT LAW]

~~SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.~~

~~For the purposes of this Article the term "low rent housing project" shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded from the term "low rent housing project" any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.~~

~~For the purposes of this Article only "persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.~~

~~For the purposes of this Article the term "state public body" shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.~~

~~For the purposes of this Article the term "Federal Government" shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.~~

~~SECTION 2. The provisions of this Article shall be self executing but legislation not in conflict herewith may be enacted to facilitate its operation.~~

~~SECTION 3. If any portion, section or clause of this article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby.~~

~~SECTION 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.~~

[The former Article XXXV below is enacted into law and thereby preserved, and shall not be amended or repealed without the approval of a majority of the voters voting on the proposition, nor shall it be deemed to violate any provision of this Constitution.]

[ARTICLE XXXV MEDICAL RESEARCH]

~~SECTION 1. There is hereby established the California Institute for Regenerative Medicine.~~

~~SECTION 2. The institute shall have the following purposes:~~

~~(a) To make grants and loans for stem cell research, for research facilities, and for other vital research opportunities to realize therapies, protocols, and/or medical procedures that will result in, as speedily as possible, the cure for, and/or substantial mitigation of, major diseases, injuries, and orphan diseases.~~

~~(b) To support all stages of the process of developing cures, from laboratory research through successful clinical trials.~~

~~(c) To establish the appropriate regulatory standards and oversight bodies for research and facilities development.~~

~~SECTION 3. No funds authorized for, or made available to, the institute shall be used for research involving human reproductive cloning.~~

~~SECTION 4. Funds authorized for, or made available to, the institute shall be continuously appropriated without regard to fiscal year, be available and used only for the purposes provided in this article, and shall not be subject to appropriation or transfer by the Legislature or the Governor for any other purpose.~~

~~SECTION 5. There is hereby established a right to conduct stem cell research which includes research involving adult stem cells, cord blood stem cells, pluripotent stem cells, and/or progenitor cells. Pluripotent stem cells are cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. Progenitor cells are multipotent or precursor cells that are partially differentiated, but retain the ability to divide and give rise to differentiated cells.~~

~~SECTION 6. Notwithstanding any other provision of this Constitution or any law, the institute, which is established in state government, may utilize state issued tax-exempt and taxable bonds to fund its operations, medical and scientific research, including therapy development through clinical trials, and facilities.~~

~~SECTION 7. Notwithstanding any other provision of this Constitution, including Article VII, or any law, the institute and its employees are exempt from civil service.~~

[END OF TEXT]

SECTION FOUR. TRANSITIONAL PROVISIONS

The following provisions are for purposes of transition from the former provisions of this Constitution to those set forth in this Constitution and shall not otherwise constitute a part hereof.

1. Any provision which is retained in but not amended by this Constitution and that was previously adopted by initiative may be repealed but not amended by initiative by a majority of the voters voting on the proposition at a general election. The petition for any such initiative shall be signed by voters equal in number to eight percent of the votes cast for all candidates for Governor at the last gubernatorial election.

2. If any provision of this Constitution is finally determined to be invalid or unconstitutional by the State Supreme Court or the federal courts, the balance of this Constitution shall remain in full force and effect. The Legislature by law shall submit separately for approval by a majority of the voters a revision to such provision approved by the Attorney General to cure such defect which will best carry out its intents and purposes.

3. If but only to the extent necessary for the submission to and consideration of this Constitution by the voters of this State, the courts may delete one or more of the following amendments which are determined not to constitute part of a single subject consisting of fiscal reform addressed by this Constitution: former Articles I (other than general definitions), II (except Section 10), III (other than general definitions), VI, VII (except new Section 9), XI (except Sections 5, 11 and 12), XA, XB XII, XIV, XV, XX (except Section 2), XXI, XXXIV and XXXV.

4. On or before July 1, 2012, the Legislature by law may submit separately for approval by a majority of the voters a technical amendment approved by the Attorney General to any provision (a) added, or (b) of the former Constitution amended, by this Constitution to correct an error, ambiguity or inconsistency and which will best carry out its intents and purposes.

5. With the approval of 60 percent of the members of each house of the Legislature, the Legislature by law may submit separately prior to July 1, 2012, for approval by a majority of the voters voting on the proposition, a specific and narrowly-defined exception to the appropriations subject to limitation of the State or local governments pursuant to Article XIII B which exceptions are consistent with the general intents and purposes of such Article.

6. With the approval of 60 percent of the members of each house, the Legislature by law may submit separately on or before July 1, 2012, for approval by a majority of the voters voting on the proposition, a specific and narrowly-defined exception to the definition of "Revenues" set forth in Section 7 of Article XIII D which exceptions are consistent with the general intents and purposes of such Article.

7. In order to allow for a more orderly transition to the systems of taxation and revenue allocation provided by this Constitution, the following provisions shall not become effective until July 1, 2012:

- (a) amended Sections 8 (c), 18 and 22 of Article IV;
- (b) amended Sections 5 (b), (c) and (d), 8 and 10 (c) of Article VIII;
- (c) new Section 12 of new Article X;
- (d) the repeal of former Articles XIXA and XIXB;
- (e) new Article XII (other than Section 22);
- (f) amended Articles XIII A through XIII D (other than new Section 31 of Article XIII C);
- (g) new Section 12 of new Article XV; and
- (h) new Article XVII;

provided, that any elections pursuant to any of the foregoing provisions to approve new, increase or extended taxes may be conducted prior to July 1, 2012.

8. The appropriations subject to limitation of the State and of local governments under amended Article XIII D for fiscal periods preceding July 1, 2012, shall be adjusted proportionately by the Legislature by law prior to July 1, 2012, pursuant to objective criteria uniformly applied, for increases and reductions in, and shifting to and among the State and local governments of, tax and other revenues pursuant to this Constitution.

9. Taxes (including *ad valorem* taxes), fees, fines and charges (each as defined in amended Article XIII D), if and to the extent imposed, extended, increased, reduced or revised by the State and by local governments (other than for school districts, county boards of education, and State institutions of higher education) as required or permitted without voter approval by the provisions of this Constitution set forth in Section 7, above, shall be imposed, extended, increased, reduced or revised, and thereafter adjusted for each of the two succeeding fiscal periods, so as to be *revenue neutral* relative to the first fiscal period for the State and each local government beginning on or after July 1, 2010, as adjusted for: (a) the re-allocation of tax and other revenues as between and among the State and local governments pursuant to this Constitution; and (b) changes in the cost of living and changes in population (each as defined in amended Article XIII D).

This section shall not apply to (i) tuition and related charges of State institutions of higher education; and (ii) new, expanded or increased State and local government taxes and fees approved by the voters subsequent to the date of adoption, and pursuant to the provisions, of this Constitution that expressly waive the protections of this Section 9 in the ballot proposition.

10. The limitations on terms of public offices under the former Constitution shall continue to apply to any persons holding such offices at any time between (a) January 1, 2010, and (b) the general election next following the first redistricting completed pursuant to new Article IVA. The new limitations under this Constitution shall become effective for the public officials elected at such general election.

11. No provision of this Constitution shall apply to an existing contract for its current duration to the extent such application would constitute an impairment of contract in violation of the provisions of this Constitution or the Constitution of the United States.

12. All statutes, including those approved by initiative, which are inconsistent, directly or indirectly, with the provisions of this Constitution, including but not limited to initiative statutes and enabling statutes for initiative Constitutional amendments, are repealed to the extent of any such inconsistency.

13. Each obligation of the State under the former Constitution and any laws in effect as of the date of adoption of this Constitution to reimburse local governments for tax or other revenues previously borrowed, deferred, delayed, suspended, reduced or redirected shall survive the adoption of this Constitution; provided, that any specific such reimbursement obligation may be excepted with the approval of 60 percent of the members of each house of the Legislature and a majority of the voters voting on such proposition prior to July 1, 2010.

14. The State may levy up to a one percent sales and use tax in addition to that permitted by Section 1 of Article XII without voter approval if, to the extent, and only for so long as, necessary to pay any reimbursement obligations to local governments under the provisions of the prior Constitution and the laws in effect as of the date of adoption of this Constitution

15. This Constitution shall not affect: (a) the validity of any bonds outstanding as of the date of adoption of this Constitution, (b) the validity of any specific tax or fees levied or imposed prior to the date of adoption of this Constitution, and pledged to pay or secure bonds for so long as such bonds (or bonds issued to refund such bonds without an extension of maturity) remain outstanding; or (c) the ability of the State or local governments to issue bonds approved by the voters prior to such date of adoption but not yet issued; provided, that the proceeds shall be used solely for the purposes and subject to the limitations originally approved and then existing.

16. Any legal action with respect to provisions of this Constitution filed in State courts prior to July 1, 2011, shall be given precedence by the courts over all other matters, and decisions of Superior Courts in such cases may be appealed directly to the State Supreme Court.

17. To avoid misinterpreting the intentions of the voters, the courts in construing provisions of this Constitution shall not take into account any changes in such provisions from the corresponding provisions of the former Constitution.

18. With the exception of any initiative amendment to Article I hereof, this Constitution and the provisions hereof, given its broad scope, shall prevail over any other more narrow