

AMENDED IN SENATE AUGUST 15, 2002

AMENDED IN SENATE AUGUST 8, 2002

AMENDED IN SENATE MAY 23, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

Assembly Constitutional Amendment

No. 12

Introduced by Assembly Member Vargas
(Principal coauthor: Senator Peace)

June 6, 2001

Assembly Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Sections 10 and 11 to Article XII thereto, and repealing and adding Section 9 of Article XII thereof, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

ACA 12, as amended, Vargas. Public utilities: control.

The California Constitution authorizes the Public Utilities Commission to establish rates and rules for all public utilities subject to its jurisdiction. The Public Utilities Act generally prohibits any public utility from transferring or encumbering utility property that is necessary or useful in the performance of its duties to the public without an order by the commission.

This measure would *declare that a reliable, adequate, and affordable supply of electricity is essential to the health, safety, and welfare of the people of the state and that the people of the state have a right to require that those responsible for a reliable, adequate, and affordable supply of electricity be answerable to them. The measure would prohibit the*

Legislature, ~~and~~ the Public Utilities Commission, *local government, and state officers, as defined*, from allowing ~~the transfer of ownership, operation, or control of any asset of the public utility to any institution not subject to the exclusive authority of the people of the State and their agents, through the state's agencies or political subdivisions, from owning, operating, controlling, or managing any public utility asset.~~

~~This measure would prohibit any agent of the people of the State, including the Legislature and the Public Utilities Commission, from compromising, abridging, or otherwise diminishing the right of the people of the State to protect their health and safety by ensuring that those responsible for a reliable and affordable supply of electricity are accountable to the people of the State.~~

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 WHEREAS, The health, *safety*, and welfare of the people of this
2 State cannot be protected without the guarantee of a reliable,
3 *adequate*, and affordable supply of electricity; and

4 WHEREAS, *A reliable, adequate, and affordable supply of*
5 *electricity is critical to the health of this state's economy; and*

6 WHEREAS, The people of this State have the exclusive right
7 to protect their health ~~and safety~~, *safety, and welfare* by ensuring
8 the availability of a reliable, *adequate*, and affordable supply of
9 electricity; and

10 WHEREAS, The people exercise this right to electricity
11 through the authority of the Legislature pursuant to Section 8 of
12 Article II of the California Constitution, ~~and~~ through the Public
13 Utilities Commission pursuant to Article XII of the California
14 Constitution, *and through local government pursuant to Section*
15 *9 of Article XI of the California Constitution; and*

16 WHEREAS, The Legislature ~~or the Public Utilities~~
17 ~~Commission~~, *the Public Utilities Commission, or local*
18 *government* may, from time to time, delegate all or portions of this
19 authority over electricity to other agencies, commissions, public
20 corporations, or other institutions including, but not limited to, the
21 State Energy Resources and Conservation Commission, the
22 California Independent System Operator, ~~the California Power~~
23 ~~Exchange, the California Power Authority~~ *the California Power*
24 *Authority, the Electricity Oversight Board, joint powers agencies,*
25 *or other entities as directed by the Legislature or the Public*

~~Utilities Commission, the Public Utilities Commission, or local government, each acting within the authority granted by the California Constitution; and~~

WHEREAS, In making a delegation of authority in this regard, neither the Legislature ~~nor the Public Utilities Commission, the Public Utilities Commission, nor local government~~ may extend control, management, or policy authority to any body or institution, public or private, that is governed by an authority that is not accountable to the people of this State *or to local government*; and

WHEREAS, Where a delegation of authority has occurred it shall remain revocable by the people's exercise of authority through the Legislature, the Public Utilities Commission, *local government*, or other means guaranteed by the California Constitution; and

WHEREAS, The exclusive right to regulate public utilities is a right granted only by the people of this State; and

WHEREAS, In the exercise of that authority, neither the ~~Legislature nor the Public Utilities Commission may allow for the transfer of ownership, operation, or control of any asset of a public utility to Legislature, the Public Utilities Commission, nor local government, may allow the ownership, operation, control, or management of any public utility asset by any institution, public or private, not subject to the exclusive authority of the people of this State and their agents or of local government~~; and

WHEREAS, The people of this State recognize the authority of the federal government to regulate interstate commerce and the obligation of the people of this State through their authorities to abide by that regulatory framework where established and enforced in a just and reasonable manner, but that the federal government's right to regulate does not extend to the right to select or dictate the means by which representatives of this State *or of local government* may be chosen; now, therefore be it

Resolved by the Assembly, the Senate Concurring, That the Legislature of the State of California at its 2001–02 Regular Session commencing on the fourth day of December 2000, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First—That Section 9 of Article XII is repealed.

1 Second—That Section 9 is added to Article XII to read:

2 ~~SEC. 9. Neither the Legislature nor the Public Utilities~~
3 ~~Commission may allow the transfer of ownership, operation, or~~
4 ~~control of any asset of a public utility to any institution, public or~~
5 ~~private, not subject to the exclusive authority of the people of this~~
6 ~~State and their agents.~~

7 *SEC. 9. A reliable, adequate, and affordable supply of*
8 *electricity is essential to the health, safety, and welfare of the*
9 *people of this State. The people of this State have the right to*
10 *protect their health, safety, and welfare by requiring that those*
11 *responsible for a reliable, adequate, and affordable supply of*
12 *electricity be answerable to them. This right may not be*
13 *compromised, abridged, or otherwise diminished.*

14 Third—That Section 10 is added to Article XII to read:

15 ~~SEC. 10. No agent of the people of this State, including, but~~
16 ~~not limited to, the Legislature and the Public Utilities~~
17 ~~Commission, may compromise, abridge, or otherwise diminish~~
18 ~~the right of the people of this State to protect their health and safety~~
19 ~~by ensuring that those responsible for a reliable and affordable~~
20 ~~supply of electricity are answerable to the people of this State.~~

21 *SEC. 10. No person or entity, including, but not limited to, the*
22 *Legislature, the Public Utilities Commission, local government,*
23 *and state officers, as defined in subdivision (f) of Section 14 of*
24 *Article V, may allow the ownership, operation, control, or*
25 *management of any public utility asset by any institution, public*
26 *or private, that is not subject to the exclusive authority of the*
27 *people of this State through the State's agencies or political*
28 *subdivisions. The State's political subdivisions include, for this*
29 *purpose, any city, city and county, county, irrigation district, or*
30 *other legally authorized local governmental entity with*
31 *jurisdictional boundaries.*

32 Fourth—That Section 11 is added to Article XII to read:

33 *SEC. 11. The provisions of this article restate all related*
34 *provisions of the Constitution in effect immediately prior to the*
35 *effective date of this amendment and make no substantive change.*