

AMENDED IN SENATE AUGUST 22, 2002

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, the Public Utilities Commission, local government, and state officers, as defined, from allowing any institution *that is* not subject to the exclusive authority of the people, through the state's agencies or political subdivisions, ~~from owning, operating, controlling, or managing~~ *to own, operate, control, or manage* any public utility ~~asset~~ *electric transmission facility*.

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, safety, and welfare by ensuring the
8 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, through the Public
13 Utilities Commission pursuant to Article XII of the California
14 Constitution, and through local government pursuant to Section 9
15 of Article XI of the California Constitution; and

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

26 WHEREAS, In making a delegation of authority in this regard,
27 neither the Legislature, the Public Utilities Commission, nor local
28 government may extend control, management, or policy authority
29 to any body or institution, public or private, that is governed by an

1 authority that is not accountable to the people of this State or to
2 local government; and

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

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

10 WHEREAS, In the exercise of that authority, neither the
11 Legislature, the Public Utilities Commission, nor local
12 government, may allow the ownership, operation, control, or
13 management of any public utility ~~asset~~ *electric transmission*
14 *facility* by any institution, public or private, not subject to the
15 exclusive authority of the people of this State and their agents or
16 of local government; and

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

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

31 First—That Section 9 of Article XII is repealed.

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

33 SEC. 9. A reliable, adequate, and affordable supply of
34 electricity is essential to the health, safety, and welfare of the
35 people of this State. The people of this State have the right to
36 protect their health, safety, and welfare by requiring that those
37 responsible for a reliable, adequate, and affordable supply of
38 electricity be answerable to them. This right may not be
39 compromised, abridged, or otherwise diminished.

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

1 SEC. 10. No person or entity, including, but not limited to, the
2 Legislature, the Public Utilities Commission, local government,
3 and state officers, as defined in subdivision (f) of Section 14 of
4 Article V, may allow the ownership, operation, control, or
5 management of any public utility ~~asset~~ *electric transmission*
6 *facility* by any institution, public or private, that is not subject to
7 the exclusive authority of the people of this State through the
8 State's agencies or political subdivisions. The State's political
9 subdivisions include, for this purpose, any city, city and county,
10 county, irrigation district, or other legally authorized local
11 governmental entity with jurisdictional boundaries.

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

13 SEC. 11. The provisions of this article restate all related
14 provisions of the Constitution in effect immediately prior to the
15 effective date of this amendment and make no substantive change.

