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ACA-2 State tax agency. (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

**ASSEMBLY
AMENDMENT**

CONSTITUTIONAL

NO. 2

Introduced by Assembly Member Nazarian

December 03, 2018

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 14 of Article II thereof, by amending Section 8 of Article III thereof, by amending Section 18 of Article IV thereof, by amending Sections 5 and 14 of Article V thereof, by amending Section 10 of Article VII thereof, by amending Sections 3, 11, 18, 19, and 28 of, and repealing and adding Section 17 of, Article XIII thereof, by amending Section 10 of Article XVI thereof, by amending Section 22 of Article XX thereof, and by amending Sections 1 and 2 of, and by amending the heading of, Article XXI thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 2, as introduced, Nazarian. State tax agency.

The California Constitution establishes the State Board of Equalization, consisting of the Controller and 4 other members elected from districts, and provides for the election, recall, impeachment, filling of vacancies, and salaries and benefits of those board members elected from districts. The California Constitution vests the board with various powers, duties, and responsibilities related to the administration of taxes imposed on property, insurance, and alcoholic beverages.

This measure would abolish the State Board of Equalization and instead require the Legislature to create a state tax agency by statute for purposes of carrying out those powers, duties, and responsibilities previously vested in the State Board of Equalization by the California Constitution and by statute. The bill would authorize the Legislature to vest all powers, duties, and responsibilities in a single state tax agency or separately in multiple state tax agencies. The measure would deem the California Department of Tax and Fee Administration and the office of Tax Appeals to be state tax agencies for purposes of these provisions and vest in those entities specified powers, duties and responsibilities currently vested in the State Board of Equalization. The measure would make conforming changes by deleting various references to the State Board of Equalization throughout the California Constitution, including in those provisions regarding the election, recall, impeachment, filling of vacancies, and salaries and benefits of members of the board, and make other nonsubstantive changes.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, 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 14 of Article II thereof is amended to read:

SEC. 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 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, ~~members~~ **Members** of the Assembly, ~~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.

Second— That Section 8 of Article III thereof is amended to read:

SEC. 8. (a) The California Citizens Compensation Commission is hereby created and shall consist of seven members appointed by the Governor. The commission shall establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers.

(b) The commission shall consist of the following persons:

(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~~ **A** person appointed pursuant to this paragraph ~~may~~ **may not**, 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, 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. 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, the commission shall adjust the annual salary of state officers 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 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, 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.

(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.

(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 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.

(i) Until a resolution establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits for state officers takes effect, each state officer 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.

Third— That Section 18 of Article IV thereof is amended to read:

SEC. 18. (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~~ *two-thirds* of the membership of the Senate concurs.

(b) State officers elected on a statewide ~~basis, members of the State Board of Equalization,~~ *basis* 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.

Fourth— That Section 5 of Article V thereof is amended to read:

SEC. 5. (a) Unless the law otherwise provides, 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 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.

Fifth— That Section 14 of Article V thereof is amended to read:

SEC. 14. (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 from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been 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 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 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 12 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 12 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.

(e) 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 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; and Treasurer.~~

Sixth— That Section 10 of Article VII thereof is amended to read:

SEC. 10. (a) (1) 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

(2) 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

(3) "**Federal** office," as used in this section means the office of United States Senator and Member of the House of ~~Representatives; and to~~ **Representatives.** 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.

Seventh— That Section 3 of Article XIII thereof is amended to read:

SEC. 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)~~ *subdivision (a) of Section 11*.

(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.

(f) Buildings, land on which they are situated, and equipment used exclusively for 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) *(1)* 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~~, *state tax agency*, and the assessor of the county in which the trees are located.

~~The~~

(2) 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) *(1)* \$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~~

(2) An increase in this exemption above the amount of \$7,000 shall *not* 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~~

(3) 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) (1) Property in the amount of \$1,000 of a claimant ~~who~~ *who satisfies all of the following criteria:*

~~(1)is~~

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

~~(2)served either~~

(B) *The claimant served under any of the following circumstances:*

(i) ~~in~~ *in* time of ~~war, or~~ *war.*

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

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

~~(3)resides~~

(C) *The claimant resides* in the State on the current lien date.

~~An~~

(2) *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~~

(3) *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~~ *who satisfies all of the following criteria:*

(1) ~~is~~ *The claimant is* the unmarried spouse of a deceased veteran who met the service requirement stated in ~~paragraphs (1) and (2) of subsection 3(e), and subparagraphs (A) and (B) of paragraph (1) of subdivision (o).~~

(2) ~~does~~ *The claimant does* not own property in excess of ~~\$10,000, and~~ *\$10,000.*

(3) ~~is~~ *The claimant is* a resident of the State on the current lien date.

(q) (1) Property in the amount of \$1,000 of a claimant ~~who~~ *who satisfies all of the following criteria:*

~~(1)is~~

(A) *The claimant is* the parent of a deceased veteran who met the service requirement stated in ~~paragraphs (1) and (2) of subsection 3(e), and subparagraphs (A) and (B) of paragraph (1) of subdivision (o).~~

~~(2)receives~~

(B) *The claimant receives* a pension because of the veteran's ~~service, and~~ *service.*

~~(3)is~~

(C) *The claimant is* a resident of the State on the current lien date.

~~Either~~

(2) *Either* parent of a deceased veteran may claim this exemption.

~~An~~

(3) *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.

(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.

Eighth— That Section 11 of Article XIII thereof is amended to read:

SEC. 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) (1) 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)~~ (A) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and ~~(2)~~ (B) a figure derived in the manner specified in this Section for land located in Mono County.

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(2) 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.

#

(3) 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~~, subdivision (b) of this section, 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); subdivisions (a) to (d)~~, inclusive, of this ~~Article~~, section, 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) subdivision (a)~~ of this ~~Article~~ section 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); subdivision (a) of this section~~, 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); subdivisions (a) to (e)~~, inclusive, of this ~~Article~~: section.

(g) Any assessment made pursuant to ~~Sections 11(a) to 11(d); subdivisions (a) to (d)~~, inclusive, of this ~~Article~~ section shall be subject to review, equalization, and adjustment by the ~~State Board of Equalization~~, state tax agency, but an adjustment shall conform to the provisions of these ~~Sections~~: sections.

Ninth— That Section 17 of Article XIII thereof is repealed.

~~SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-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 terms.~~

Tenth— That Section 17 is added to Article XIII thereof, to read:

SEC. 17. (a) The Legislature shall establish a state tax agency by statute for purposes of carrying out the following powers, duties, and responsibilities:

(1) The following powers, duties, and responsibilities imposed under this Constitution:

(A) The review, equalization, or adjustment of a property tax assessment pursuant to Section 11.

(B) The measurement of county assessment levels and adjustment of secured local assessment rolls pursuant to Section 18.

(C) The assessment of those properties specified in Section 19.

(D) The assessment of taxes on insurers pursuant to Section 28.

(E) The assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages in this state pursuant to Section 22 of Article XX.

(F) Any other power, duty, or responsibility imposed under this Constitution that was vested in the State Board of Equalization as of the date immediately preceding the effective date of this section.

(2) Any power, duty, or responsibility that the Legislature vested in the State Board of Equalization by statute as of the date immediately preceding the effective date of this section. This paragraph shall not be construed to limit the authority of the Legislature to amend or repeal any statute that previously vested a power, duty, or responsibility in the State Board of Equalization.

(3) Any additional power, duty, or responsibility that the Legislature vests in the state tax agency by statute.

(b) In implementing this section, the Legislature may vest all powers, duties, and responsibilities described in subdivision (a) in a single state tax agency or separately vest those powers, duties, and responsibilities in multiple state tax agencies. As used in this Constitution, "state tax agency" includes any entity established by the Legislature pursuant to this section and vested by statute with the power, duty, or responsibility described.

(c) The state taxing agency established pursuant to this section shall be the successor to, and is vested with all of the described duties, powers, and responsibilities of, the State Board of Equalization previously established pursuant to this article. Any reference to the State Board of Equalization in this Constitution shall be deemed to instead refer to the state tax agency established pursuant to this section. The Legislature shall provide by statute for the transfer of all employees serving in state civil service and all rights and property from the State Board of Equalization to the state tax agency.

(d) (1) The California Department of Tax and Fee Administration established pursuant to Part 8.7 (commencing with Section 15570) of Division 3 of Title 2 of the Government Code, and the Office of Tax Appeals established pursuant to Part 9.5 (commencing with Section 15670) of Division 3 of Title 2 of the Government Code, shall each be deemed to be a "state tax agency" as described in subdivision (b).

(2) (A) The California Department of Tax and Fee Administration shall be successor to and is vested with any duty, power, or responsibility, with respect to the assessment and collection of taxes, that was vested in the former State Board of Equalization pursuant to this article as of the date immediately preceding the effective date of this section.

(B) The Office of Tax Appeals shall be successor to and is vested with any duty, power, or responsibility, with respect to the review, equalization, or adjustment of taxes, that was vested in the former State Board of Equalization pursuant to this article as of the date immediately preceding the effective date of this section.

(3) This subdivision shall not be construed as limiting the authority of the Legislature to amend or repeal any statute referenced in paragraph (1) or to abolish the California Department of Tax and Fee Administration or the Office of Tax Appeals.

Eleventh— That Section 18 of Article XIII thereof is amended to read:

SEC. 18. The ~~Board~~ *state tax agency* 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.

Twelfth— That Section 19 of Article XIII thereof is amended to read:

SEC. 19. (a) (1) The ~~Board~~ *state tax agency* shall annually assess ~~(1)~~ (A) pipelines, flumes, canals, ditches, and aqueducts lying within ~~2~~ *two* or more counties and ~~(2)~~ (B) 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~~

(2) ~~No~~ other tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. 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~~

(b) ~~The~~ Legislature may authorize ~~Board~~ assessment *by the state tax agency* of property owned or used by other public utilities.

~~The Board~~

(c) ~~The~~ *state tax agency* 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.

Thirteenth— That Section 28 of Article XIII thereof is amended to read:

SEC. 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.

~~(f)~~

(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) (A) 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):~~ paragraph.

~~The~~

(B) 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):~~ paragraph.

~~For~~

(C) For the purposes of this ~~paragraph (3) of subdivision (f)~~ paragraph, 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~~

(D) 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~~

(E) 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) (A) 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~~

(B) 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)~~

(f) 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)

(g) The taxes provided for by this section shall be assessed by the ~~State Board of Equalization~~: state tax agency.

(i)

(h) 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)

(i) 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.

Fourteenth— That Section 10 of Article XVI thereof is amended to read:

SEC. 10. (a) Whenever the United States government or any officer or agency ~~thereof shall provide~~ of the United States government provides pensions or other aid for the aged, ~~co-operation~~ cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

~~The~~

(b) ~~The~~ money expended by any county, city and county, municipality, ~~district~~ 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~~: state tax agency.

Fifteenth— That Section 22 of Article XX thereof is amended to read:

SEC. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, ~~possession~~ possession, and transportation of alcoholic beverages within the State, ~~and~~ and, subject to the laws of the United States regulating commerce between foreign nations and among the ~~states~~ 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.

All alcoholic beverages may be bought, sold, served, ~~consumed~~ 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.

The sale, furnishing, giving, or causing to be sold, furnished, or ~~giving~~ given 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 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 ~~or she~~ 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~~ ~~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~~ ~~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 that~~ department to manufacture, ~~import~~ ~~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 ~~or her~~ 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~~ ~~duty, corruption~~, or incompetency.

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, ~~suspending~~ ~~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~~ ~~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 that~~ 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~~ ~~state tax agency established pursuant to Section 17 of Article XIII~~ shall assess and collect ~~such any~~ excise taxes as are or may be imposed by the Legislature on account of the manufacture, ~~importation~~ ~~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~~ ~~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~~ ~~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.

Sixteenth— That the heading of Article XXI thereof is amended to read:

Article XXI REDISTRICTING OF SENATE, ASSEMBLY, ~~AND CONGRESSIONAL~~ ~~AND BOARD OF EQUALIZATION~~ DISTRICTS

Seventeenth— That Section 1 of Article XXI thereof is amended to read:

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 Citizens Redistricting Commission described in Section 2 shall adjust the boundary lines of the congressional, State Senatorial, ~~Assembly, and Board of Equalization~~ *and Assembly* districts (also known as “redistricting”) in conformance with the standards and process set forth in Section 2.

Eighteenth— That Section 2 of Article XXI thereof is amended to read:

SEC. 2. (a) The Citizens Redistricting Commission shall be created no later than December ~~31 in~~ *31*, 2010, and in each year ending in the number zero thereafter.

(b) 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 commission that is independent from legislative influence and reasonably representative of this State's diversity.

(2) The 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 four final redistricting 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 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, or as a paid consultant to, ~~the Board of Equalization,~~ the Congress, the Legislature, or any individual legislator, or to register as a federal, ~~state~~ *state*, or local lobbyist in this State.

(d) The commission shall establish single-member districts for the Senate, Assembly, ~~Congress, and State Board of Equalization~~ *and Congress* 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. Congressional districts shall achieve population equality as nearly as is practicable, and ~~Senatorial, Assembly, and State Board of Equalization~~ *Senatorial and Assembly* 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, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions. A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. 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 geographical compactness such that nearby areas of population are not bypassed for more distant population.

(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 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 Congress, Senate, ~~Assembly, and State Board of Equalization~~ *and Assembly* shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(g) By August ~~15 in 15~~, 2011, and in each year ending in the number one thereafter, the commission shall approve four final maps that separately set forth the district boundary lines for the congressional, Senatorial, ~~Assembly, and State Board of Equalization~~ *and Assembly* districts. Upon approval, the commission shall certify the four final maps to the Secretary of State.

(h) The commission shall issue, with each of the four 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 California 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.