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DISTRICT COURTS OF APPEAL: APPELLATE JURISDICTION

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DISTRICT COURTS OF APPEAL: APPELLATE JURISDICTION. Senate Constitutional Amendment No. 11. Provides District Courts of Appeal shall have appellate jurisdiction of municipal and justice court cases as provided by law.

YES

NO

(For Full Text of Measure, See Page 16, Part II)

Analysis by the Legislative Counsel

Generally, under the California Constitution, a district court of appeal has appellate jurisdiction (that is, the power to hear and decide appeals) only over (1) cases tried in a superior court and (2) cases appealed to the Supreme Court which that court transfers to the district court of appeal. A district court of appeal does not generally have appellate jurisdiction over cases tried in a court of lesser jurisdiction than a superior court, that is, a municipal court or justice court. The Legislature cannot expand the jurisdiction of district courts of appeal beyond that conferred by the Constitution.

This measure provides that district courts of appeal shall have appellate jurisdiction in all cases within the original jurisdiction of the municipal and justice courts, to the extent and in the manner provided for by law. Thus, under this measure the Legislature would be empowered to give to district courts of appeal appellate jurisdiction over cases tried in the municipal and justice courts where the district courts of appeal do not now have that appellate jurisdiction.

Argument in Favor of Senate Constitutional Amendment No. 11

This constitutional amendment was unanimously approved by the State Legislature and has the active support of both the State Bar of California and the Judicial Council. It deserves your YES vote in order that the Legislature may fill in a present gap in our State laws.

This measure will enable the Legislature to provide for an informal, speedy and inexpensive appeal to the District Courts of Appeal in those cases arising in the Justice or Municipal Courts where such an appeal is plainly merited. At present, appeals in these cases can be taken only to the Superior Court, or to the Appellate Department of the Superior Court in counties having Municipal Courts. Such cases, regardless of their merits, cannot be taken to the appellate courts of this State even though the decision of the Superior Court is in conflict with the decisions of other counties. For example, a Superior Court in one county may interpret a statute entirely differently from the way that very same statute is interpreted in another county.

In both criminal and civil matters it is now possible to have as many different interpretations of the law in Justice and Municipal Court matters as there are counties in this State, namely 58. Very few of the decisions of the Appellate Departments of the Superior Court are written opinions and there is at present no way for the Superior Court, sitting as the Appellate Department, to be familiar with the decisions in other counties. A person may be sent to jail for as much as six months in one jurisdiction and acquitted in another under different interpretations of the same statute.

At the present time, the one instance in which an appeal can be taken from the Superior Court or Appellate Department of the Superior Court, in cases arising in the Justice or Municipal Courts, is that involving an interpretation of a U.S. statute or the U.S. Constitution. In such a case the appeal must be made directly to the U.S. Supreme Court because there is no State appellate court higher than the Superior Court which is authorized to decide the case.

This constitutional amendment will permit the Legislature to provide an expeditious, informal and inexpensive procedure in those cases where an important question of law is construed differently in several counties or in those cases where an important question of Federal Law arises, under which the District Courts of Appeal will be authorized to transfer cases to themselves for hearing and decision.

In those few cases where justice requires, under provisions already existing in the California Constitution, the State Supreme Court in turn could transfer such cases to itself from the District Courts of Appeal to achieve uniformity of decision throughout the State.

J. WILLIAM BEARD
Senator, 39th District
Imperial County

STANLEY ARNOLD
Senator, 1st District
Lassen, Modoc & Plumas Counties

Argument Against Senate Constitutional Amendment No. 11

Of itself, S.C.A. No. 11 is harmless—and useless. It is the doors that it opens by which it is to be judged.

There is now no law whereby an appeal can go to a district court of appeal from a justice or municipal court. So, to be of use, the amendment must be followed by legislation. If legislation opens the doors, now closed, so that an appeal from one of those courts, which now goes to a superior court, where it is decided, is to go either directly or after the decision in the superior court to the higher court, these results will follow—invariably: (1) the district courts, already loaded with work, will become overloaded; (2) added delays in the administration of justice will result; and (3) an added burden will be placed on the state budget.

These last two results will come about, not because the justices of the district courts of appeal are any less diligent and able than are the judges of the superior courts. But the latter do not have to write opinions in all cases, as section 24 of Art. VI of the constitution requires of the justices. And the preparation and composition of written opinions just takes time. The result will be there will have to be more justices, and they are

paid at a higher rate than are superior court judges.

A further delay in the final disposition of these appeals may also follow from the provisions of Section 4c, Art. VI of the constitution, which provides for hearings in the state Supreme Court,

following decisions in the district courts of appeal. All this can be avoided by a "no" vote on S.C.A. No. 11.

EDWARD T. BISHOP
Judge, Superior Court (Retired)
County of Los Angeles

STREET AND HIGHWAY FUNDS: USE FOR LOCAL GRADE CROSSING BONDS.

14

Senate Constitutional Amendment No. 1. Includes separation of grade districts to which Legislature may appropriate fuel taxes and motor vehicle registration and license fee moneys. Such moneys allocated to local agencies may be used for paying bonds duly issued for grade crossing separation projects to extent of 50% of sums allocated.

YES	
NO	

(For Full Text of Measure, See Page 16, Part II)

Analysis by the Legislative Counsel

This measure would amend Section 3 of Article XXVI of the Constitution. That article requires money collected from motor vehicle fuel taxes and from vehicle registration and license fees to be expended exclusively and directly for highway purposes. This constitutional amendment would add separation of grade districts to the list of governmental bodies to which such funds could be allocated by the Legislature to be expended for highway purposes.

It would also permit counties, cities and counties, cities, and separation of grade districts to use up to 50 percent of the highway funds allocated to them annually for the payment of principal and interest on bonds issued by them to finance grade separation projects involving the intersection of the streets and highways with rapid transit or road rights-of-way. The bonds would have to be approved by two-thirds of the electors and could not exceed 25 years. Such bond financing would not be possible under Article XXVI at the present time since the tax funds would not be used "exclusively and directly" for highway purposes.

Argument in Favor of Senate Constitutional Amendment No. 1

Railroad grade crossings have been the scene of many bad accidents through the years. But the elimination of these hazards has proven a very difficult problem for local governments because of the normally high costs involved.

Any extensive development of rapid transit could accentuate this problem by creating many new high speed grade crossings, so the problem may grow.

Although the railroads or transit companies are generally required (by the Public Utilities Commission) to pay a good proportion of the costs of grade crossing separations, and the State has stepped in to help, local governments are often financially unable to meet their share of the costs.

Frequently the sums are too great to be furnished from annual operating budgets and taxpayers are understandably reluctant to vote bond issues tied into local property taxes for projects of this nature.

This proposition would permit that portion of Motor Vehicle Fuel Fund (gasoline taxes, vehicle registration and drivers' license fees) which

are allocated to local governments to be used to pay principal or interest on bonds issued to build such grade separations.

This is NOT a bond issue. It doesn't appropriate a nickel of funds and doesn't furnish any added money to anyone. It doesn't impose any new or greater tax of any kind.

It is merely a permissive measure to allow cities and counties a flexibility in meeting their street and road problems, and specifically railroad or rapid transit grade crossing problems, which they are now prohibited under existing law.

There are a number of important restrictions in this proposition as a protection to the taxpayer. Any bond issue to which these funds may be applied must be approved by two-thirds of the voters of the local government involved.

The term of the bonds may not exceed 25 years and not more than 50 percent of the funds allocated in any one year may be used for these purposes.

Supplementary law already enacted by the legislature contingent upon passage of this proposition, spells out in detail the procedures to be used and the protection to be afforded.

There was no opposition expressed to this proposition at legislative hearings.

Many smaller cities in this state have critical deficiencies in their street system at intersections of those streets with railroads. Proposition 14 provides a means by which these deficiencies can be overcome.

Again, this proposition will permit a city or county to use a portion of its own share of the Motor Vehicle Fuel Fund for the payment of principal and interest on bonds for railroad or rapid transit grade crossing separations, but only if two-thirds of their people vote to do so.

Vote "Yes" on Proposition 14.

LUTHER E. GIBSON
Senator for Solano County

HUGO FISHER
Senator for San Diego County

Argument Against Senate Constitutional Amendment No. 1

1. It is a proposed amendment of the anti-diversion Article XXVI of the State Constitution, thus establishing a precedent for further amendments and weakening of said Article.

13	DISTRICT COURTS OF APPEAL: APPELLATE JURISDICTION. Senate Constitutional Amendment No. 11. Provides District Courts of Appeal shall have appellate jurisdiction of municipal and justice court cases as provided by law.	YES	
		NO	

(This proposed amendment does not expressly amend any existing section of the Constitution, but adds a new section thereto; therefore, the provisions thereof are printed in **BLACK-FACED TYPE** to indicate they are **NEW**.)

PROPOSED AMENDMENT TO ARTICLE VI
Sec. 4e. The district courts of appeal shall have appellate jurisdiction on appeal in all cases within the original jurisdiction of the municipal and justice courts, to the extent and in the manner provided for by law.

14	STREET AND HIGHWAY FUNDS: USE FOR LOCAL GRADE CROSSING BONDS. Senate Constitutional Amendment No. 1. Includes separation of grade districts to which Legislature may appropriate fuel taxes and motor vehicle registration and license fee moneys. Such moneys allocated to local agencies may be used for paying bonds duly issued for grade crossing separation projects to extent of 50% of sums allocated.	YES	
		NO	

(This proposed amendment expressly amends an existing section of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

porarily loaned to the State General Fund upon condition that the amount so loaned shall be repaid therefrom to the funds from which so borrowed to be used for the purposes specified in Sections 1 or 2 hereof. The moneys referred to in Sections 1 or 2 hereof, allocated for general expenditure in counties, cities and counties, cities, or separation of grade districts, may be used for the payment of the principal and interest of bonds issued by counties, cities, cities and counties, or by separation of grade districts to the extent of 50 percent of sums so allocated in any one year. Such bonds must be approved by a two-thirds vote of the electors and the term thereof shall not exceed 25 years. The proceeds from such bonds shall be used to finance grade crossing separation projects involving the intersection of public streets and highways with railroad or rapid transit rights-of-way.

PROPOSED AMENDMENT TO ARTICLE XXVI

SEC. 3. The provisions of this article are self-executing but the Legislature shall have full power to appropriate such moneys and to provide the manner of their expenditure by the State, counties, cities and counties, or cities, or separation of grade districts for the purposes specified and to enact legislation not in conflict with this article. This article shall not prevent any part of the moneys referred to in Sections 1 or 2 hereof from being tem-

15	'SENATE REAPPORTIONMENT. Initiative Constitutional Amendment. Establishes and apportion 40 senatorial districts. Provides for election of all Senators in 1962, one-half of Senators to be elected every two years thereafter. Requires Legislature in 1961 to fix boundaries of districts in counties having more than one district on basis of population, area, and economic affinity, which may be refixed following each decennial federal census. Permits Legislature following 1980 and each subsequent decennial federal census to reapportion senatorial districts on same basis; provided no county shall have more than 7 districts and 20 districts be apportioned to designated counties."	YES	
		NO	

(This proposed amendment expressly amends existing sections of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE** and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

expiration of the second year, so that in the year 1962 a Senator shall be elected from each senatorial district, as provided in Section 6 of this Article. The seats of the 20 Senators elected in the year 1962 from the odd-numbered districts shall be vacated at the expiration of the second year, so that one-half of the Senators shall be elected every two years; provided, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

PROPOSED AMENDMENTS TO ARTICLE IV

Section 5 and Section 6 of Article IV of the Constitution of the State of California is hereby amended to read:

SEC. 5.
The Senate shall consist of 40 members, and the Assembly of 80 members, to be elected by districts, numbered as hereinafter provided. The seats of the ~~twenty~~ **twenty** Senators elected in the year ~~eighteen hundred and eighty-two~~ **1960** shall be vacated at the

SEC. 6.
For the purpose of choosing members of the ~~Legislature Assembly~~ **Legislature Assembly**, the State shall be divided into 40 ~~Senatorial~~ **Senatorial** and 80 assembly districts to be called ~~Senatorial and Assembly~~ **Senatorial and Assembly** districts. Such districts shall be composed of contiguous territory,