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PARTIAL CONSTITUTIONAL REVISION: PUBLIC UTILITIES, CORPORATIONS AND WATER USE

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PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Revises provisions of Constitution relating to public utilities, corporations, and water use. Legislature may increase membership of Public Utilities Commission. Renumbers provisions relating to State lending its credit and owning corporate stock.	YES	
	NO	

(For Full Text of Measure, See Page 17, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise portions of the California Constitution dealing with corporations; the composition and jurisdiction of the Public Utilities Commission; the regulation of public utilities; the condemnation of public utility property; judicial review of actions by the Public Utilities Commission; and the valuation of public utility property in eminent domain proceedings.

A "No" vote is a vote to reject this revision.

For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise the provisions of the California Constitution dealing with corporations and public utilities. The revision would restate certain existing provisions, some with and some without substantive change. In addition certain existing provisions would be deleted from the Constitution, thus placing the subject matter of the deleted provisions under legislative control through the enactment of statutes. One such statute is Chapter 855 of the Statutes of 1969, which has been enacted and will take effect if this measure is adopted.

Corporations

Article XII of the Constitution now contains specific provisions dealing with the formation and regulation of corporations.

The revision would delete these provisions, with the following exceptions:

(a) The provision that laws concerning corporations may be amended or repealed would be retained and transferred to Article XX.

(b) The provision regulating the lending of state credit to, and investing public funds in, corporations would be retained and transferred to Article XIII.

Public Utilities

Generally, Article XII of the Constitution now provides for a Public Utilities Commission of five members to be appointed from the state at large, but authorizes the Legislature to provide for the division of the state into districts of equal population for their appointments; requires commissioners to be qualified persons; prohibits persons with specified personal and financial interests in corporations subject to regulation by the commission from holding such office; directs the Legislature to fix the salaries of the commissioners; and

prescribes certain internal commission procedures.

The commission is vested with broad plenary powers to regulate the rates of transportation companies, and is authorized to exercise such control and regulation over enumerated types of public utilities, as well as every class of business designated a public utility by the Legislature, as the Legislature may provide. Power of control over public utilities as to local, police, sanitary and other regulations vested in cities and counties is continued when approved at an election by a majority of the voters voting thereon. Cities and counties are authorized to grant such franchises for public utilities as may be prescribed by law. The Legislature is given plenary power, unlimited by any provisions of the Constitution, to confer upon the commission additional powers not inconsistent with those set forth.

All railroad, canal, and other transportation companies are declared to be common carriers subject to legislative control. Decisions of the commission approving increases in rates of transportation companies are not subject to judicial review except upon the question of whether such decisions will result in confiscation of property. Discrimination in charges by transportation companies is prohibited, unless excepted in special cases after investigation by the commission. The commission is authorized to compel the payment of reparations for excessive or discriminatory charges.

Officers and employees of railroad or canal companies are prohibited from certain business relations with the company. Transportation companies are prohibited from giving free passes or discounts to certain public officers, and the acceptance of any such pass or discount by a Member of the Legislature or any such public officer other than members of the Public Utilities Commission constitutes a forfeiture of office.

The Legislature is authorized to confer power on the commission to fix the just compensation to be paid for property of a public utility which is taken by eminent domain.

The revision will retain the general substance of these provisions, with the following major changes:

(a) The Legislature would be authorized to increase the number of members of the commission.

(b) The Legislature would be authorized to confer upon the commission any jurisdiction and legislative, executive, and judicial power which is cognate and germane to the regulation of public utilities. The existing provision giving the Legislature authority un-

limited by the Constitution to confer powers on the commission would be deleted.

(c) The Legislature would be authorized to grant the commission authority to fix just compensation for property of a public utility taken under eminent domain only upon the request of both the condemnor and the condemnnee. Existing provisions permit the Legislature to grant such authority without regard to the requests of either party.

The following existing provisions would be deleted thereby placing this subject matter under legislative control:

(a) Provisions authorizing the Legislature to divide the state into districts for the appointment of the commission members, requiring that members be electors, detailing prohibitions against conflicts of interest, instructing the Legislature to fix the salaries of members, and providing for internal commission procedures.

(b) Provisions granting authority to the commission to regulate the rates of transportation companies, and relating to rate discrimination, and the provision limiting judicial review of a decision of the commission approving an increase in transportation rates to the question of whether the decision will result in confiscation of property. (See analysis of Chapter 855 of the Statutes of 1969 below).

(c) Provisions detailing the powers of the commission relating to investigations, examinations, subpoenas, and punishment for contempt.

(d) The provision prohibiting transportation companies from granting free passes or ticket discounts to public officeholders in the state and providing for forfeiture of office if the officeholder accepts such a pass or discount.

Statutes Contingent Upon Adoption of Above Measure

The text of Chapter 855 of the Statutes of 1969, which was enacted to become operative if and when the above revision is approved, is on record in the office of the Secretary of State in Sacramento and also contained in the 1969 published Statutes. A digest of that chapter is as follows:

Enacts as statutes some of the provisions now found in the California Constitution which the proposed revision would delete.

(1) The provisions of the Constitution which would be enacted as statutes include:

(a) Procedural provisions specifying where suit against a corporation may be brought.

(b) A provision prohibiting any corporation, association, or individual from circulating as money anything but lawful United States money.

(c) Provisions conferring jurisdiction on the Public Utilities Commission over the rates of all transportation companies, prohibiting certain kinds of rate discrimination, regulat-

ing various procedures of the commission, and restricting court review of transportation rates to questions of confiscation.

(d) A provision prohibiting any rail corporation officer or employee from having any interest in the business of transportation as a common carrier over the railroad's facilities or in the furnishing of material or supplies to the railroad, but allowing such persons to own stock in such enterprises.

(2) The measure also restricts to situations where both condemnor and condemnnee consent, the authority of the Public Utilities Commission to fix compensation to be paid when property is condemned for certain grade crossings and railroad rights-of-way and where property of a public utility is condemned.

Argument in Favor of Proposition 3

The present Article XII of the California Constitution provides for the organization of corporations and the regulation of public utilities.

Proposition 3 deletes the provisions of the Constitution governing corporate organization because they are more effectively covered by statute. In this manner the Legislature periodically can update state law in accord with modern business practices while at the same time ensuring that the public is protected.

This revision retains the Public Utilities Commission structure in substantially its present form providing for its necessary powers as an historic, important state agency. The PUC is the successor to the Railroad Commission. That body was established in 1879 by constitutional convention delegates who were deeply disturbed by the exposé of monopolistic, anticompetitive practices by the railroads in California during the late 19th Century. The PUC's authority subsequently was broadened to include jurisdiction over the operations and rates charged by common carriers and all forms of public transportation—rail, bus, truck and air lines—operating within this state, as well as suppliers of gas, water, electricity, telephone and telegraph service.

A YES vote on Proposition 3 updates the PUC's procedures, clarifies its role and functions, deletes obsolete extraneous provisions and those duplicated verbatim in the statutes, and makes consistent the PUC's regulatory powers so that they apply both to transportation companies and other public utilities.

Procedural provisions concerning the PUC are treated like those governing court procedures by removing them from the Constitution and reenacting them as statutes, thereby shortening and simplifying our Constitution. Thus, the Legislature is empowered to see that the PUC is doing its job and protecting the public.

A YES vote permits the Legislature to provide for additional members of the PUC

should an increased workload warrant it; the present Constitution limits the number of commissioners to five.

SEMBLYMAN ROBERT E. BADHAM
SENATOR GEORGE E. DANIELSON

Argument Against Proposition 3

The people of California rightfully rejected the efforts of the State Constitution Revision Commission to wipe out safeguards written into Article XII (Public Utilities and Corporations) of the California Constitution in the General Election of 1968. We have before us once again the same efforts to

(1) delete the constitutional regulation of corporations and public utilities;

(2) delete the express constitutional grant of authority to the Public Utilities Commission to regulate rates of transportation companies;

(3) delete the constitutional provisions detailing powers of the P.U.C. to examine books and records of companies and to issue subpoenas and punish for contempt.

The present California constitution provides that no transportation company can raise its rates without a showing before the P.U.C. that such an increase is justified. The transportation industry has indicated that they wish to repeal this provision which, it would appear, benefits the people of this state more than it benefits the industry. Once taken off the constitution, the matter would be subject to Legislative action where special interests are better represented by lobbyists than are the people's interests. In this connection, this proposed amendment would delete Sec. 19 of Article XII which forbids the taking of special favors from railroads by members of the Legislature.

It is equally questionable that the constitutional ban against conflict of interest covering members of the Public Utilities Commission would be removed by this proposition.

The Constitution Revision Commission has a worthwhile goal in trying to streamline our constitution and delete unnecessary language. Many of us believe, nonetheless, that the pro-

visions mentioned in this argument are very necessary to fully safeguard the interests of the public and we urge the electorate to reject this proposition once more.

JOHN J. MILLER
Assemblyman, 17th District

Rebuttal to Argument Against Proposition 3

Proposition 3 does delete constitutional reference to the formation of corporations. However, in 4 years of consideration by the Constitution Revision Commission and the Legislature, not one person objected to its deletion. All agreed that providing for this matter by statute is appropriate, for it gives added flexibility in a technical area of the law, and would help simplify our Constitution.

The present Constitution prevents the Legislature from affecting the power of the Public Utilities Commission (PUC) to regulate rates of transportation companies and the PUC may be given legislative, executive and judicial powers without restriction. The authority of the Legislature to confer such additional powers is unlimited by the existing Constitution.

Proposition 3 allows the Legislature to determine the powers of the PUC, but requires that those powers be "cognate and germane" to the regulation of public utilities. (Section 3)

The Legislature is elected by the people. Members of the PUC are appointed by the Governor for a 6 year term. Both the PUC and legislators are subject to outside influence, but legislators can be removed by voters at elections. For this reason, the Legislature is given more control over the operation of the PUC, but restricted in the amount of authority it can turn over to the PUC.

Section 19 is deleted as unnecessary because it is covered by statute. Read this Section; it only covers transportation passes and exempts "Railroad Commissioners", later defined as PUC members. Thus this Section does little to protect the public.

SENATOR GEORGE E. DANIELSON

4 PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Deletes from Constitution provisions relating to state institutions and public buildings and provisions relating to land, and homestead exemption. Renumbers provision relating to convict labor.

YES

NO

(For Full Text of Measure, See Page 22, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to revise a portion of the California Constitution by deleting provisions relating to state penal institutions, homesteads and other property of heads of families, state lands, and unimproved private lands.

A "No" vote is a vote to retain these provisions in the Constitution.

For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise Article X of the California Constitution dealing with state penal institutions, and repeal Article XVII, dealing with homesteads and other property of heads of families, state lands, and unimproved private lands. The revision retains one

nues from any or all street parking meters then owned or controlled or to be acquired or controlled by it.

Tenth—That Section 8 is added to Article XXII to read:

Sec. 8. It shall be competent, in all charters framed under the authority given by Section 5 of Article XI, to provide, in addi-

tion to those provisions allowable by this Constitution, and by the laws of the state for the manner in which, the times at which, and the terms for which the members of board of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3 PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Revises provisions of Constitution relating to public utilities, corporations, and water use. Legislature may increase membership of Public Utilities Commission. Renumbers provisions relating to State lending its credit and owning corporate stock.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 31, 1969 Regular Session, expressly amends an existing section of the Constitution, repeals an existing article thereof, and adds new sections and a new article thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** or **REPEALED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLES XII, XIII, XIV, AND XX

First—That Article XII is repealed.

ARTICLE XII
CORPORATIONS

SECTION 1. The Legislature shall have power, by general laws and not otherwise, to provide for the formation, organization and regulation of corporations and to prescribe their powers, rights, duties and liabilities and the powers, rights, duties and liabilities of their officers and stockholders or members. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed.

SEC. 4. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue and shall be subject to be sued, in all Courts, in like cases as natural persons.

SEC. 5. The Legislature shall have no power to pass any act granting any charter for banking purposes; but corporations or associations may be formed for such purposes under general laws; and the Legislature shall provide for the classification of cities and towns by population for the purpose of regulating the business of banking. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

SEC. 6. All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place; and business been

commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

SEC. 7. The Legislature shall not extend any franchise, nor remit the forfeiture of any franchise, of any quasi public corporation; but may provide by general laws, uniformly applicable to all corporations formed for a limited period; for the extension of the term of existence of any corporation.

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals; and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

SEC. 12. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the state and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

Notwithstanding provisions to the contrary in this section and Section 31 of Article IV of this Constitution, the Legislature may au-

thorize the investment of money of any public pension or retirement fund other than a fund provided for in Section 19001 of the Constitution Code; or any successor thereof; not to exceed 25 percent of the assets of such fund determined on the basis of cost in the common stock or shares and not to exceed 5 percent of assets in preferred stock or shares of any corporation provided:

a. Such stock is registered on a national securities exchange as provided in the Securities Exchange Act of 1934 as amended, but such registration shall not be required with respect to the following stocks:

1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds represented by capital, special surplus funds, and undivided profits of at least fifty million dollars (\$50,000,000);

2) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars (\$50,000,000);

3) Any preferred stock

b. Such corporation has total assets of at least one hundred million dollars (\$100,000,000);

c. Bonds of such corporation, if any are outstanding, qualify for investment under the Government National Mortgage Administration Fund; and there are no arrears of dividend payments on its preferred stock;

d. Such corporation has paid a cash dividend on its common stock in at least 3 of the 10 years next preceding the date of investment; and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid; and such corporation has paid an earned cash dividend in each of the last 3 years;

e. Such investment in any one company may not exceed 5 percent of the common stock shares outstanding; and

f. No single common stock investment may exceed 2 percent of the assets of the fund based on cost.

Notwithstanding provisions to the contrary in this Constitution and Section 91 of Article IX of this Constitution, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the fund provided for in Section 19001 of the Constitution Code; or any successor thereof; in stock or shares of a diversified management investment company registered under the Investment Company Act of 1940, which has a total assets of at least fifty million dollars (\$50,000,000); provided, however, that the

al investment in such stocks and shares together with stocks and shares of all other corporations may not exceed 25 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

Sec. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

Sec. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises on the breach occurs, or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial as in other cases.

Sec. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose under the laws of this State shall have the right to connect at the State line with railroads of other States. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the others' passengers, baggage, and cars, without delay or discrimination.

Sec. 18. No president, director, officer, agent, or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company; nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

Sec. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket by a member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

Sec. 20. No railroad or other transportation company shall raise any rate of charge for the transportation of freight or passengers or any charge connected therewith or incidental thereto, under any circumstances whatsoever, except upon a showing before the Railroad Commission provided for in this Constitution, that such increase is justified; and the decision of the said commission upon the showing so made shall not be subject to review by any court except upon the question whether such decision of the commission will result in confiscation of property.

Sec. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State. It shall be unlawful for any railroad or other

transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

Provided, however, that upon application to the Railroad Commission provided for in this Constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The Railroad Commission shall have power to authorize the issuance of excursion and commutation tickets at special rates.

Nothing herein contained shall be construed to prevent the Railroad Commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to said shipper being excessive or discriminatory; provided no discrimination will result from such reparation.

Sec. 22. The Railroad Commission is continued in existence as the Public Utilities Commission which shall consist of five members. The commission shall be appointed by the Governor from the State at large, provided that the Legislature, in its discretion, may divide the State into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and provided further that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the Governor immediately after the adoption of this section; to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of the members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim commission which shall expire on the last day of the next regular or special session of the Legislature. Commissioners appointed for regular terms shall, at the beginning of the term for which they are

appointed, and those appointed to fill vacancies shall immediately upon their appointment, enter upon the duties of their office.

The Legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The Legislature shall have the power, by a two-thirds vote of all members elected to each House, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified citizens of this State, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Public Utilities Commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of Public Utilities Commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to make, take or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated pursuant to such inquiry, investigation, hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the order of the commission.

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by said commission than the rates, fares and charges which are specified in such tariff. The commission shall have the further power to examine books, records and papers of all railroad and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpoenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies.

No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon the Public Utilities Commission additional powers of the

same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the Public Utilities Commission in this Constitution, and the authority of the Legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this Constitution.

Whenever in this Constitution or the laws of this State "Railroad Commission" is used, it shall be deemed to refer to the Public Utilities Commission.

Sec. 22. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this State, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the Legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the Legislature to be public utilities shall likewise be subject to such control and regulation. The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the Legislature, and the right of the Legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this Constitution. From and after the passage by the Legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this State, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the Railroad Commission; *provided, however*, that this section shall not affect such powers of control over public utilities as relate to the making and enforcement of local, police, sanitary and other regulations, other than the fixing of rates, vested in any city and county or incorporated city or town as, at an election to be held pursuant to law, a majority of the qualified electors of such city and county, or

incorporated city or town, voting thereon, shall vote to retain, and until such election such powers shall continue unimpaired, but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the Railroad Commission as provided by law; *and provided, further*, that where any such city and county or incorporated city or town shall have elected to continue any of its powers to make and enforce such local, police, sanitary and other regulations, other than the fixing of rates, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the Railroad Commission in the manner prescribed by the Legislature; *and provided, further*, that this section shall not affect the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. Nothing in this section shall be construed as a limitation upon any power conferred upon the Railroad Commission by any provision of this Constitution now existing or adopted concurrently herewith.

Sec. 23a. The Railroad Commission shall have and exercise such power and jurisdiction as shall be conferred upon it by the Legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the State or any county, city and county, incorporated city or town, municipal water district, irrigation district or other public corporation or district, and the right of the Legislature to confer such powers upon the Railroad Commission is hereby declared to be plenary and to be unlimited by any provision of this Constitution. All acts of the Legislature heretofore adopted which are in accordance herewith are hereby confirmed and declared valid.

Sec. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

Second—That Article XII is added, to read:

ARTICLE XII

Public Utilities

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

Sec. 2. Private corporations and persons that own, operate, control, or manage a line, plant or system for the transportation of people or property, the transmission of messages, or the furnishing of heat, light, water, power, storage or wharfage, directly or indirectly to or for the public, and common carriers, are public utilities subject to control

by the Legislature. The Legislature may prescribe that additional classes of private corporations or persons are public utilities.

Sec. 3. The Commission shall have such jurisdiction and such legislative, executive, and judicial powers as are conferred upon it by the Legislature, which are cognate and germane to the regulation of public utilities. The manner and scope of review of Commission action in a court of record shall be provided by statute.

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

Sec. 4. The Legislature may provide that on request of condemnor and condemnee the Commission fix just compensation for public utility property taken by eminent domain.

Third—That former Section 13 of Article XII is added to Article XIII as Section 30, to read:

Sec. 30. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the state and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

Notwithstanding provisions to the contrary in this section and Section 25 of this article, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the fund provided for in Section 13901 of the Education Code, or any successor thereto, not to exceed 25 percent of the assets of such fund determined on the basis of cost in the common stock or shares and not to exceed 5 percent of assets in preferred stock or shares of any corporation provided:

a. Such stock is registered on a national securities exchange, as provided in the "Securities Exchange Act of 1934" as amended, but such registration shall not be required with respect to the following stocks:

1) The common stock of a bank which is a member of the Federal Deposit Insurance Corporation and has capital funds, represented by capital, surplus, and undivided profits, of at least fifty million dollars (\$50,000,000);

2) The common stock of an insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars (\$50,000,000);

3) Any preferred stock;

b. Such corporation has total assets of at least one hundred million dollars (\$100,000,000);

c. Bonds of such corporation, if any are outstanding, qualify for investment under the law governing the investment of the retirement fund, and there are no arrears of dividend payments on its preferred stock;

d. Such corporation has paid a cash dividend on its common stock in at least 8 of the 10 years next preceding the date of investment, and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period have been equal to the amount of such dividends paid, and such corporation has paid an earned cash dividend in each of the last 3 years;

e. Such investment in any one company may not exceed 5 percent of the common stock shares outstanding; and

f. No single common stock investment may exceed 2 percent of the assets of the fund, based on cost.

Notwithstanding provisions to the contrary in this section and Section 25 of this article, the Legislature may authorize the investment of moneys of any public pension or retirement fund other than the fund provided for in Section 13901 of the Education Code, or any successor thereto, in stock or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars (\$50,000,000); provided, however, that the total investment in such stocks and shares, together with stocks and shares of all other corporations may not exceed 25 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

Fourth—That Section 1 of Article XIV is amended to read:

~~Section~~ Sec. 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; ~~provided, that the rates or compensation to be collected by any person, company, or corporation in this State, for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the Board of Supervisors, or city~~

and county, or City or Town Council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any Board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process, to compel action at the suit of any party in-

terested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation, collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation, to the city and county, or city or town where the same are collected, for the public use.

Fifth—That Section 23 is added to Article XX, to read:

Sec. 23. Laws concerning corporations may be amended or repealed.

4 PARTIAL CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Deletes from Constitution provisions relating to state institutions and public buildings and provisions relating to land, and homestead exemption. Renumbers provision relating to convict labor.

YES	
NO	

(This amendment proposed by Assembly Constitutional Amendment No. 30, 1969 Regular Session, expressly repeals existing articles of the Constitution, and adds a new section thereto; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLES X, XVII, AND XX

First—That Article X is repealed.

ARTICLE X

STATE INSTITUTIONS AND PUBLIC BUILDINGS

Section 1. The Legislature may provide for the establishment, government, charge and superintendence of all institutions for all persons convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institutions to any public governmental agency or agencies, officers, or board or boards, whether now existing or hereafter created by it. Any of such agencies, officers, or boards shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, as the Legislature may prescribe.

The Legislature may also provide for punishment, treatment, supervision, custody and care of females in a manner and under circumstances different from men similarly convicted.

The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

Second—That Article XVII is repealed.

ARTICLE XVII

LAND, AND HOMESTEAD EXEMPTION

Section 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

Sec. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

Sec. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law.

Third—That former Paragraph 3 of Section 1 of Article X is added to Article XX as Section 24, to read:

Sec. 24. The labor of convicts shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.