

AMENDED IN ASSEMBLY JANUARY 7, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**Assembly Constitutional Amendment**

**No. 13**

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**Introduced by Assembly Member Leonard**

August 22, 2001

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Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (b) of Section 14 of Article II thereof, by amending subdivision (l) of Section 8 of Article III thereof, by amending subdivision (b) of Section 18 of Article IV thereof, by amending subdivision (b) of Section 5 of, and by amending subdivision (f) of Section 14 of, Article V thereof, by amending subdivision (a) of Section 10 of Article VII thereof, by amending subdivision (j) of Section 3 of, by amending subdivision (g) of Section 11 of, by amending Sections 17, 18, and 19 of, by amending subdivision (h) of Section 28 of, and by adding Section 17.5 to, Article XIII thereof, by amending the ninth paragraph of subdivision (d) of Section 22 of Article XX thereof, and by amending the heading of, and by amending Section 1 of, Article XXI thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 13, as amended, Leonard. Taxation.

Existing constitutional law establishes the State Board of Equalization, provides for the election, recall, and filling of vacancies of board members, and prescribes various powers and duties of the board in connection with property taxes, insurance taxes, and alcoholic beverage taxes.

This measure would change the name of the board to the ~~Tax Appeals~~ *California Tax* Commission. The measure would require the commission, in addition to performing the duties of the former board, to collect and administer taxes on or measured by income and taxes withheld from wages, and to conduct administrative review of state tax matter determinations. The measure would also make necessary conforming changes in various other constitutional provisions.

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

1 WHEREAS, It is the intent of the Legislature to change the  
2 name of the Board of Equalization to the Tax Appeals  
3 Commission; and

4 WHEREAS, It is the intent of the Legislature that the Tax  
5 Appeals Commission will continue the existing duties of the Board  
6 of Equalization as well as assume the duties of collecting and  
7 administering the state income tax; and

8 WHEREAS, It is the intent of the Legislature to streamline and  
9 consolidate California’s tax collection agencies to save taxpayer  
10 funds and to simplify administration of our tax system; now,  
11 therefore, be it

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

18 First—That subdivision (b) of Section 14 of Article II thereof  
19 is amended to read:

20 (b) A petition to recall a statewide officer must be signed by  
21 electors equal in number to 12 percent of the last vote for the office,  
22 with signatures from each of five counties equal in number to 1  
23 percent of the last vote for the office in the county. Signatures to  
24 recall Senators, ~~members~~ *Members* of the Assembly, members of  
25 the ~~Tax Appeals~~ *California Tax* Commission, and judges of courts  
26 of appeal and trial courts must equal in number 20 percent of the  
27 last vote for the office.

28 Second—That subdivision (l) of Section 8 of Article III thereof  
29 is amended to read:



1 (l) “State officer,” as used in this section, means the Governor,  
2 Lieutenant Governor, Attorney General, Controller, Insurance  
3 Commissioner, Secretary of State, Superintendent of Public  
4 Instruction, Treasurer, member of the ~~Tax Appeals~~ *California Tax*  
5 *Commission*, and Member of the Legislature.

6 Third—That subdivision (b) of Section 18 of Article IV thereof  
7 is amended to read:

8 (b) State officers elected on a statewide basis, members of the  
9 ~~Tax Appeals~~ *California Tax Commission*, and judges of state  
10 courts are subject to impeachment for misconduct in office.  
11 Judgment may extend only to removal from office and  
12 disqualification to hold any office under the State, but the person  
13 convicted or acquitted remains subject to criminal punishment  
14 according to law.

15 Fourth—That subdivision (b) Section 5 of Article V thereof is  
16 amended to read:

17 (b) Whenever there is a vacancy in the office of the  
18 Superintendent of Public Instruction, ~~the~~ Lieutenant Governor,  
19 Secretary of State, Controller, Treasurer, or Attorney General, or  
20 on the ~~Tax Appeals~~ *California Tax Commission*, the Governor  
21 shall nominate a person to fill the vacancy who shall take office  
22 upon confirmation by a majority of the membership of the Senate  
23 and a majority of the membership of the Assembly, and who shall  
24 hold office for the balance of the unexpired term. In the event the  
25 nominee is neither confirmed nor refused confirmation by both the  
26 Senate and the Assembly within 90 days of the submission of the  
27 nomination, the nominee shall take office as if he or she had been  
28 confirmed by a majority of the Senate and Assembly, provided  
29 that, if that 90-day period ends during a recess of the Legislature,  
30 the period shall be extended until the sixth day following the day  
31 on which the Legislature reconvenes.

32 Fifth—That subdivision (f) of Section 14 of Article V thereof  
33 is amended to read:

34 (f) “State officer,” as used in this section, means the Governor,  
35 Lieutenant Governor, Attorney General, Controller, Insurance  
36 Commissioner, Secretary of State, Superintendent of Public  
37 Instruction, Treasurer, and member of the ~~Tax Appeals~~ *California*  
38 *Tax Commission*.

39 Sixth—That subdivision (a) of Section 10 of Article VII thereof  
40 is amended to read:



1 (a) No person who is found liable in a civil action for making  
2 libelous or slanderous statements against an opposing candidate  
3 during the course of an election campaign for any federal,  
4 statewide, ~~Tax Appeals~~ *California Tax Commission*, or legislative  
5 office or for any county, city and county, city, district, or any other  
6 local elective office may retain the seat to which he or she is  
7 elected, where it is established that the libel or slander was a major  
8 contributing cause in the defeat of an opposing candidate.

9 A libelous or slanderous statement shall be deemed to have been  
10 made by a person within the meaning of this section if that person  
11 actually made the statement or if the person actually or  
12 constructively assented to, authorized, or ratified the statement.

13 “Federal office,” as used in this section, means the office of  
14 United States Senator and Member of the House of  
15 Representatives. To the extent that this section does not conflict  
16 with any provision of federal law, it is intended that candidates  
17 seeking the office of United States Senator or Member of the  
18 House of Representatives comply with this section.

19 Seventh—That subdivision (j) of Section 3 of Article XIII  
20 thereof is amended to read:

21 (j) (1) Immature forest trees planted on lands not previously  
22 bearing merchantable timber, or planted or of natural growth on  
23 lands from which the merchantable original growth timber stand,  
24 to the extent of 70 percent of all trees over 16 inches in diameter,  
25 has been removed. Forest trees or timber shall be considered  
26 mature at that time after 40 years from the time of planting or  
27 removal of the original timber when so declared by a majority vote  
28 of a board consisting of a representative from the State Board of  
29 Forestry, a representative from the *California Tax Commission*,  
30 and the assessor of the county in which the trees are located.

31 (2) The Legislature may supersede the foregoing provisions  
32 with an alternative system or systems of taxing or exempting forest  
33 trees or timber, including a taxation system not based on property  
34 valuation. Any alternative system or systems shall provide for  
35 exemption of unharvested immature trees, encourage the  
36 continued use of timberlands for the production of trees for timber  
37 products, and provide for restricting the use of timberland to the  
38 production of timber products and compatible uses with  
39 provisions for taxation of timberland based on the restrictions.



1 This paragraph may not be construed to exclude timberland from  
2 the provisions of Section 8.

3 Eighth—That subdivision (g) of Section 11 of Article XIII  
4 thereof is amended to read:

5 (g) Any assessment made pursuant to subdivisions (a) to (d),  
6 inclusive, shall be subject to review, equalization, and adjustment  
7 by the *California Tax* Commission, but an adjustment shall  
8 conform to those subdivisions.

9 Ninth—That Section 17 of Article XIII is amended to read:

10 SEC. 17. The ~~Tax Appeals~~ *California Tax* Commission  
11 consists of five voting members: the Controller and four members  
12 elected for four-year terms at gubernatorial elections. The State  
13 shall be divided into four ~~Tax Appeals~~ *California Tax* Commission  
14 districts with the voters of each district electing one member. A  
15 member may not serve more than two terms.

16 Tenth—That Section 17.5 is added to Article XIII thereof, to  
17 read:

18 SEC. 17.5. In addition to its other powers and duties granted  
19 by this Constitution, the Commission shall collect and administer  
20 taxes on or measured by income that are imposed on persons,  
21 corporations, or other entities as prescribed by law, and any taxes  
22 that are withheld from wages. The Commission shall also conduct  
23 administrative review of state tax matter determinations.

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

25 SEC. 18. The Commission shall measure county assessment  
26 levels annually and shall bring those levels into conformity by  
27 adjusting entire secured local assessment rolls. In the event a  
28 property tax is levied by the State, however, the effects of  
29 unequalized local assessment levels, to the extent any remain after  
30 adjustments made pursuant to this section, shall be corrected for  
31 purposes of distributing this tax by equalizing the assessment  
32 levels of locally and state-assessed properties and varying the rate  
33 of the state tax inversely with the counties' respective assessment  
34 levels.

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

36 SEC. 19. The Commission shall annually assess (1)  
37 pipelines, flumes, canals, ditches, and aqueducts lying within ~~2~~  
38 *two* or more counties and (2) property, except franchises, owned  
39 or used by regulated railway, telegraph, or telephone companies,  
40 car companies operating on railways in the State, and companies



1 transmitting or selling gas or electricity. This property shall be  
2 subject to taxation to the same extent and in the same manner as  
3 other property.

4 No other tax or license charge may be imposed on these  
5 companies that differs from that imposed on mercantile,  
6 manufacturing, and other business corporations. This restriction  
7 does not release a utility company from payments agreed on or  
8 required by law for a special privilege or franchise granted by a  
9 government body.

10 The Legislature may authorize the Commission to assess  
11 property owned or used by other public utilities.

12 The Commission may delegate to a local assessor the duty to  
13 assess a property used but not owned by a state assessee on which  
14 the taxes are to be paid by a local assessee.

15 Thirteenth—That subdivision (h) of Section 28 of Article XIII  
16 thereof is amended to read:

17 (h) The taxes provided for by this section shall be assessed by  
18 the Commission.

19 Fourteenth—That the ninth paragraph of subdivision (d) of  
20 Section 22 of Article XX thereof is amended to read:

21 The ~~Tax Appeals~~ *California Tax* Commission shall assess and  
22 collect such excise taxes as are or may be imposed by the  
23 Legislature on account of the manufacture, importation and sale  
24 of alcoholic beverages in this State.

25 Fifteenth—That the heading of Article XXI thereof is amended  
26 to read:

27

28

ARTICLE XXI

29

~~{C}REAPPORTIONMENT-REAPPORTIONMENT OF~~

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SENATE, ASSEMBLY, CONGRESSIONAL, AND ~~TAX~~

31

~~APPEALS~~ CALIFORNIA TAX COMMISSION DISTRICTS

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

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SECTION 1. In the year following the year in which the

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national census is taken under the direction of Congress at the

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beginning of each decade, the Legislature shall adjust the

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boundary lines of the Senatorial, Assembly, Congressional, and

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~~Tax Appeals~~ *California Tax* Commission districts in conformance

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with the following standards:



1 (a) Each member of the Senate, Assembly, Congress, and the  
2 ~~Tax Appeals~~ *California Tax* Commission shall be elected from a  
3 single-member district.

4 (b) The population of all districts of a particular type shall be  
5 reasonably equal.

6 (c) Every district shall be contiguous.

7 (d) Districts of each type shall be numbered consecutively  
8 commencing at the northern boundary of the State and ending at  
9 the southern boundary.

10 (e) The geographical integrity of any city, county, or city and  
11 county, or of any geographical region shall be respected to the  
12 extent possible without violating the requirements of any other  
13 subdivision of this section.

