

Assembly Constitutional Amendment

No. 11

**Introduced by Assembly Members Gatto, Levine, and Wilk
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March 9, 2016

Assembly Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 10 to Article XII thereof, and by repealing and adding Article XII thereof, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

ACA 11, as introduced, Gatto. Public Utilities Commission.

The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and, among other things, authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission that is cognate and germane to the regulation of public utilities, to establish the manner and scope of review of commission action in a court of record, and to enable the commission to fix just compensation for utility property taken by eminent domain. The Public Utilities Act and other provisions of the Public Utilities Code set forth the structure, funding, and responsibilities of the commission.

This measure would authorize the Legislature to reallocate or reassign all or a portion of the functions of the commission to other state

agencies, departments, boards, or other entities, consistent with specified purposes. The measure would direct the Legislature to adopt appropriate structures to provide greater accountability for the public utilities of the state and provide the necessary guidance to the commission to focus its regulatory efforts on safety, reliability, and ratesetting and to implement statutorily authorized programs for reducing emissions of greenhouse gases.

This measure would repeal the provisions of the California Constitution pertaining to the commission effective January 1, 2019, while specifying that a statute that was valid at the time the statute was enacted is not invalid by virtue of the repeal of those constitutional provisions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 WHEREAS, The 21st century has brought about many changes
2 to technology and to the delivery of services and necessities that
3 were unforeseeable in 1911 when the “Railroad Commission” was
4 enshrined in the California Constitution; and

5 WHEREAS, The 1946 constitutional amendment that renamed
6 the Railroad Commission as the Public Utilities Commission, and
7 gave it added authority over our natural gas, electrical, telephone,
8 and water companies, was also the product of a different era, when
9 these utilities and common carriers were grouped together in the
10 hopes that one regulatory body could best regulate services used
11 by the public on a daily basis; and

12 WHEREAS, The commission has taken the position that its
13 authority can only be expanded, which has resulted in an
14 ever-growing bureaucracy that now has jurisdiction over not only
15 gas, electrical, telecommunications, water utilities, and railroads,
16 but also hot-air balloons, moving companies, and ride-sharing
17 applications; and

18 WHEREAS, In the over one hundred years since its
19 establishment, the industries under the oversight of the commission
20 have grown and evolved in ways that have rendered the current
21 structure of the commission inefficient and obsolete, leaving
22 Californians without the oversight and regulatory protections that
23 we need, particularly in matters involving workforce and public
24 safety; and

1 WHEREAS, Recent events have caused grave concern around
2 our state and have highlighted the ineffectiveness of the current
3 system, specifically, in the Bay Area, the tragic San Bruno pipeline
4 explosion, which took many lives; in the Central Valley and
5 Sacramento, the significant concerns about the oil trains that
6 traverse those regions; in San Diego and Orange County, the
7 serious concerns about San Onofre and nuclear waste storage; and
8 in Los Angeles County, the fact that thousands of residents had to
9 flee their homes because of a gas leak of unprecedented size, which
10 greatly polluted our state’s air and caused many to worry about
11 the efficacy of the safety and inspection programs designed to stop
12 catastrophes like it; and

13 WHEREAS, Despite these failures to protect the public, our
14 electrical, gas, water, and telephone rates have continued to rise;
15 and

16 WHEREAS, The commission has also suffered from ethical
17 lapses, notably the failure to report ex parte communications, and
18 the closeness of commission personnel to the entities they are
19 supposed to regulate; and

20 WHEREAS, The people of California would be better served
21 with more nimble, focused, and specialized regulators, whose
22 actions would result in far greater accountability; and

23 WHEREAS, The Legislature should be forced to rethink the
24 manner in which utilities, common carriers, and other related
25 entities are regulated, and to create new structures that would
26 enable regulators to focus on safety, reliability, and affordability
27 of essential services, consumer protections for nonessential
28 services, and protecting and preserving our environment; now,
29 therefore, be it

30 *Resolved by the Assembly, the Senate concurring,* That the
31 Legislature of the State of California at its 2015–16 Regular
32 Session commencing on the first day of December 2014, two-thirds
33 of the membership of each house concurring, hereby proposes to
34 the people of the State of California that the Constitution of the
35 State be amended as follows:

36 First— This measure shall be known and may be cited as the
37 Public Utility Reform Act of 2016.

38 Second— That Section 10 is added to Article XII thereof, to
39 read:

1 SEC. 10. (a) (1) Notwithstanding Section 4, after the date the
2 measure adding this section is enacted, the Legislature has the
3 power and authority to reallocate or reassign all or a portion of the
4 functions of the Public Utilities Commission to other state agencies,
5 departments, boards, or other entities it may create.

6 (2) The Legislature’s reallocation or reassignment of these
7 functions shall be in furtherance of consumer protection, public
8 health, environmental protection, increased transparency, public
9 access, and preserving the ability of third parties to advocate for
10 and intervene on behalf of those that need their advocacy.

11 (b) The Legislature shall adopt appropriate structures to provide
12 greater accountability for the public utilities of this state and shall
13 provide the necessary guidance to focus regulatory efforts on
14 safety, reliability, and ratesetting and to implement statutorily
15 authorized programs for reducing emissions of greenhouse gases.

16 Third— That Article XII is repealed effective January 1, 2019.

17 Fourth— That Article XII is added thereto, effective January
18 1, 2019, to read:

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ARTICLE XII
PUBLIC UTILITIES

23 SECTION 1. A statute that was valid at the time of its
24 enactment is not invalid by virtue of the repeal of the former Article
25 XII by the measure that added this article.