AMENDED IN SENATE MAY 14, 2003

AMENDED IN SENATE APRIL 22, 2003

Senate Constitutional Amendment No. 6

Introduced by Senator Battin

February 18, 2003

Senate Constitutional Amendment No. 6—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, and by amending Section 1 of Article XII thereof, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SCA 6, as amended, Battin. Public Utilities Commission: election.

(1) The California Constitution provides for the recall of elective state officers, initiated by petition. Signatures to recall Senators, Members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20% of the last vote for the office.

This measure would require signatures to recall a member of the Public Utilities Commission to equal in number 20% of the last vote for the office.

(2) The California Constitution establishes the California Citizens Compensation Commission to establish the annual salary and the medical, dental, insurance, and other similar benefits of certain state officers.

This measure would additionally include members of the Public Utilities Commission among those state officers. The measure would require the California Citizens Compensation Commission, before the end of the 2007 fiscal year, and each fiscal year thereafter, to adjust the salary and the medical, dental, insurance, and other similar benefits of members of the Public Utilities Commission using the value of the salary and benefits paid on January 1, 2006, as the base amount.

(3) The California Constitution subjects state officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts to impeachment for misconduct in office.

This measure would additionally subject members of the Public Utilities Commission to impeachment for misconduct in office.

(4) Under the California Constitution, the Public Utilities Commission consists of 5 members 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 California Constitution authorizes the Legislature to remove a member for incompetence, neglect of duty, or corruption, $^2/_3$ of the membership of each house concurring.

This measure would require the commission to consist of ~~5~~ *7* members elected for 4-year terms at gubernatorial elections. The measure would require the state to be divided into ~~5~~ *7* districts with the voters of each district electing one member, and would provide for the establishment and adjustment of district boundaries by the Legislature. The measure would require the Legislature to impose by statute a requirement that a member reside in the district represented by that member. The measure would provide for the filling of vacancies. *The measure would prohibit an entity subject to regulation by the commission from making a campaign contribution, directly or indirectly, to a commissioner or candidate for commissioner, and would require the Legislature to enact statutes to implement this prohibition.*

(5) This measure would apply to terms commencing on or after January 1, 2007.

Vote: $^2/_3$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2003–04 Regular Session commencing on the second day of December 2002, 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 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 of the Assembly, members of the Board of Equalization, members of the Public Utilities Commission, 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 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 person appointed pursuant to this paragraph may, 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.

Before the end of the 2007 fiscal year, the commission shall, by a resolution adopted by a majority of the membership of the commission, adjust the annual salary and the medical, dental, insurance, and other similar benefits of members of the Public Utilities Commission using the value of the salary and benefits paid on January 1, 2006, as the base amount.

Thereafter, at or before the end of each fiscal year, the commission shall, by a single resolution adopted by a majority of the membership of the commission, adjust the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in the resolution shall be effective on and after the first Monday of the next December.

(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.

(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, member of the Public Utilities Commission, and Member of the Legislature.

Third—That Section 18 of Article IV 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 of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, members of the Public Utilities Commission, 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 1 of Article XII is amended to read:

SECTION 1. (a) The Public Utilities Commission consists of ~~5~~ *7* members elected for 4-year terms at each gubernatorial election. The State shall be divided into ~~5~~ *7* Public Utilities Commission districts with the voters of each district electing one member. A member shall enter upon the duties of the office on the first Monday after the first day of January next succeeding each gubernatorial election. The Legislature shall impose by statute a requirement that a member reside in the district represented by that member.

(b) The Legislature shall establish, and 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 Legislature shall adjust, the boundary lines of the Public Utilities Commission districts in conformance with the following standards:

(1) Each member of the Public Utilities Commission shall be elected from a single-member district.

(2) The population of the districts shall be reasonably equal.

(3) Districts shall be contiguous.

(4) Districts shall be numbered consecutively, commencing at the northern boundary of the state and ending at the southern boundary.

(5) The geographical integrity of a city, county, or city and county, or of a geographical region shall be respected to the extent possible without violating the requirements of another paragraph of this subdivision.

(c) If there is a vacancy on the Public Utilities Commission, 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. If 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. However, if the 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.

(d) An entity subject to regulation by the Public Utilities Commission may not make a campaign contribution, directly or indirectly, to a commissioner or candidate for commissioner. The Legislature shall enact statutes to implement this subdivision.

Fifth—That this measure shall apply to terms commencing on or after January 1, 2007.

O