



**Proposition 16: The Taxpayers Right to Vote Act  
(Official Title: Two-Thirds Vote Requirement for Local Public Electricity Providers)**

**Subject:** The Taxpayers Right to Vote Act

**Sponsor:** Robert Lee Pence, of Californians for Reliable Electricity. Supported by Pacific Gas & Electric Company and the California Chamber of Commerce.

**Cal-Tax Position: SUPPORT.** The Taxpayers Right to Vote Act does one simple thing: It requires voter approval before local governments can spend public money or incur public debt to get into the electricity business. And like most local special tax and bond decisions in California, two-thirds voter approval will be required.

**Major Provisions:** This proposed constitutional amendment would require local governments to obtain the approval of at least two-thirds of the voters before using public funds or incurring bonded indebtedness or other liability to establish or expand electric delivery service.

In some circumstances, the two-thirds vote would be required both in the existing territory of the local government and in the new territory to be served.

The measure's definition of "local government" is "a municipality or municipal corporation, a municipal utility district, a public utility district, an irrigation district, a city, including a charter city, a county, a city and county, a district, a special district, an agency, or a joint powers authority that includes one or more of these entities."

The measure would not require a two-thirds vote to incur debt or to expend public funds solely to purchase, provide or supply renewable electricity. Nor would it affect existing utility services provided by existing municipal utilities.

**Background:** Current law does not require local governments to obtain consent from the voters before using tax dollars or incurring debt to establish or expand electric delivery service. This measure is intended to give voters more authority over the use of their tax dollars for this type of government expansion and the spending and/or debt that accompanies it. The two-thirds threshold is consistent with existing requirements that protect taxpayers by requiring a supermajority vote for most local taxes and bonds.

Local governments have become increasingly involved in providing electricity to residents, attempting to take market share from private-sector utility companies that do not use tax dollars and are more accountable to customers. The local governments commit large amounts of tax dollars to these ventures without giving taxpayers an opportunity to vote. In many cases, the ventures involve bonds that will have to be repaid over a long period of time by taxpayers and their descendants.

For example, the Sacramento Municipal Utility District has been attempting to expand electric delivery service into parts of Yolo County, and its financing options – including issuing revenue bonds – would have a direct impact on existing ratepayers in Sacramento as well as those in Yolo County.

In Marin County, the Marin Energy Authority (a joint powers authority) is exploring the feasibility of initiating electric delivery services through "community choice aggregation," with an impact on residents who will pay for this venture.

The South San Joaquin Irrigation District also has proposed using funds to acquire or construct facilities to establish electric delivery service. Under existing law, the district is not required to get the consent of two-thirds of the voters before it spends public dollars to expand its scope.

Proposition 16's sponsor qualified the measure for the June 2010 ballot by collecting more than 694,354 signatures of registered voters who agree that taxpayers should have a right to vote before local governments use their money to enter the electricity business.

**Fiscal Impact:** The official fiscal impact estimate by the legislative analyst and Department of Finance says: "Unknown impact on state and local government costs and revenues, depending on future voter decisions, due to the measure's potential effects on electricity rates and publicly owned utility operations."

To the extent the measure discourages the government takeover of energy utilities, it will protect the state's income tax and property tax bases from eroding, and thus will reduce the pressure for higher taxes on other taxpayers. Private utility companies currently pay corporate income taxes that are used to fund government programs such as education, public safety and health care. If these taxpaying companies are replaced by government-run utilities that do not pay corporate income tax, the tax revenue will be lost. This can create more pressure for tax increases on consumers, employers and others.

Similarly, private utilities pay property taxes to repay local bonds, and the taxes for these bond repayments are spread out among all property taxpayers in the jurisdiction. When private utilities are replaced by government-run utilities that do not pay property taxes, other property owners in the jurisdiction have to pay a larger amount to pay off bonds.

Property taxes also go primarily to schools. To the extent that private utilities are replaced by public ones, there will be less property tax revenue for schools, causing a loss of money to basic-aid districts and higher state payments to schools to replace the lost property taxes in non-basic-aid districts. Such payments will force either higher taxes or reductions in other programs.