

SECTION 1. The people of the State of California find and declare all of the following:

(a) California's housing crisis is primarily due to a failure to provide enough housing (to own or rent) that is affordable for working class and lower income Californians, and this crisis has worsened due to massive reductions in available funding to help local government encourage more affordable housing production. The involvement of large financial institutions and speculators in our housing markets and recent state laws that usurp the power of local government to exercise its constitutional authority to make local land use planning and zoning decisions have combined to further restrict affordable housing options and displace many working class families and people of color from their own historic communities.

(b) Local government is best able to consider all the requisite factors and make the difficult land use planning and zoning decisions to ensure that new development is supported by the infrastructure and utilities required to maintain appropriate levels of public services, including police and fire services, parklands and public open spaces, transportation, parking and schools. The specific needs and challenges facing every California community vary greatly and therefore require significant input and leadership from local government to achieve best outcomes on land use planning and zoning issues, including the provision of affordable housing and protecting the environment.

(c) The State Legislature cannot adequately consider or address the unique impacts of land use planning and zoning laws on every local community, and recent state laws designed to require local governments to increase housing density and encourage the production of more market rate housing by minimizing public input and eliminating environmental review will not solve our affordable housing crisis -- in fact, these state laws will harm communities by escalating housing costs and increasing property tax burdens instead of encouraging collaboration with local government to produce more affordable housing.

(d) The purpose of this measure is to protect the ability of local communities to make local land use planning and zoning decisions, and to clarify the process to resolve conflicts between current or future state and local land use planning and zoning laws. One size does not fit all, and recent statewide land use and zoning laws will do great harm without significant input and participation from local communities. Home rule is a well-established principle, and local land use planning or zoning initiatives approved by voters shall not be nullified or superseded by the actions of any local or state legislative body.

(e) For purposes of this measure, the term "local land use planning and zoning law" shall not include any state or federal laws involving (A) protection of the environment or natural resources, including but not limited to the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq. and the CEQA Guidelines § 15000 et seq.), the California Endangered Species Act, the California Coastal Act of 1976 (Public Resources Code § 30000 et seq.), the Porter-Cologne Act, the federal Clean Water Act, the Surface Mining and Reclamation Act, or any pollution control or environmental justice laws, rules or regulations; (B) protection of health and safety (including but not limited to regulation of development on contaminated sites, regulation of hazardous materials storage sites, including underground storage tanks, or regulation of emergency response or disaster planning and recovery); (C) the regulation of residential or commercial rents or landlord-tenant relations; or (D) fair housing matters, including but not limited to the California Fair

Employment and Housing Act (Government Code §§ 12900 – 12996), prohibitions against discrimination (Government Code § 65008), or affirmatively furthering fair housing (Government Code § 8899.50). This constitutional amendment is expressly intended to authorize local land use planning and zoning law to override conflicting state law while ensuring that all of the above-referenced laws remain in full force and effect. This measure continues to provide for state control in the coastal zone, the siting of a power plant that can generate more than 50 megawatts of electricity, or the development or construction of water, communication or transportation infrastructure projects which the Legislature declares are matters of statewide concern and are in the best interests of the state. For purposes of this measure, it is the intent that a transportation infrastructure project shall not include a transit-oriented development project that is residential, commercial, or mixed-use.

SECTION 2. Section 3.5 is added to Article XI of the California Constitution, to read:

SEC. 3.5. For purposes of this Article XI, the term “local land use planning and zoning law” shall not include any state or federal laws involving (a) protection of the environment or natural resources, including but not limited to the California Environmental Quality Act (“CEQA”) (Public Resources Code § 21000 et seq. and the CEQA Guidelines § 15000 et seq.), the California Endangered Species Act, the California Coastal Act of 1976 (Public Resources Code § 30000 et seq.), the Porter-Cologne Act, the federal Clean Water Act, the Surface Mining and Reclamation Act, or any pollution control or environmental justice laws, rules or regulations; (b) protection of health and safety (including but not limited to regulation of development on contaminated sites, regulation of hazardous materials storage sites, including underground storage tanks, or regulation of emergency response or disaster planning and recovery); (c) the regulation of residential or commercial rents or landlord-tenant relations; or (d) fair housing matters, including but not limited to the California Fair Employment and Housing Act (Government Code §§ 12900 – 12996), prohibitions against discrimination (Government Code § 65008), or affirmatively furthering fair housing (Government Code § 8899.50).

SECTION 3. Section 4.5 is added to Article XI of the California Constitution, to read:

SEC. 4.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a county charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a county charter that involves local land use planning and zoning law within the boundaries of an unincorporated area of the county shall be deemed a county affair within the meaning of Section 4 and shall prevail over a conflicting state statute. No voter approved local initiative that involves local land use planning and zoning law within the boundaries of any county shall be overturned or otherwise nullified by any legislative body.

(b) A county charter provision, general plan, specific plan, ordinance or a regulation adopted and applicable to an unincorporated area within a county, may be determined only by a court of competent jurisdiction, in accordance with Section 4, to address either a matter of statewide concern or a county affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

- (1) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(2) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 4. Section 5.5 is added to Article XI of the California Constitution, to read:

SEC. 5.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, that involves local land use planning and zoning law within the boundaries of the city shall be deemed a municipal affair within the meaning of Section 5 and shall prevail over a conflicting state statute. No voter approved local initiative that involves local land use planning and zoning law within the boundaries of any city shall be overturned or otherwise nullified by any legislative body.

(b) A city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, may be determined only by a court of competent jurisdiction, in accordance with Section 5, to address either a matter of statewide concern or a municipal affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

(1) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(2) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 5. Section 7 of Article XI of the California Constitution is amended to read:

SEC. 7. (a) A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations ~~not~~ that are not, except as provided in subdivision (b), in conflict with general laws. A county or city may not supersede or otherwise interfere with any voter approved local initiative that involves local land use planning and zoning law.

(b) A county or city general plan, specific plan, ordinance or regulation that involves local land use planning and zoning law within the boundaries of the county or city shall prevail over conflicting general laws subject to the provisions of Section 4.5 and Section 5.5 hereof, which sections shall prevail and be applicable to cities and counties hereunder.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this subdivision are severable. If any provision of this subdivision or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.