

LEGISLATIVE COUNSEL'S DIGEST

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(Here set forth the unique numeric identifier provided by the Attorney General and circulating title and summary prepared by the Attorney General. Both the Attorney General's unique numeric identifier and the circulating title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

We, the undersigned, registered, qualified voters of California, residents of _____ County , hereby propose amendments to the Constitution of California, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or as otherwise provided by law. The proposed constitutional amendments read as follows:

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 governments 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) This constitutional amendment is expressly intended to authorize local land use planning and zoning law to override conflicting state law while ensuring that specified laws remain in full force and effect.

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

SEC. 3.5. For purposes of this article:

(a) "Land use planning and zoning law" means any law, whether adopted or put into effect by charter, ordinance, regulation, local initiative, or other action that accomplishes any of the following:

(1) Eliminates or restricts a city or county's discretion to establish or change the zoning designation of any parcel within its jurisdiction.

(2) Requires a city or county to review, approve, or deny a development application on a streamlined, ministerial, or expedited basis if the project meets a specified criteria.

(3) Approves or denies a development or subdivision of a parcel.

(4) Imposes any restriction on the ability of a city or county to deny a development project or subdivision of a parcel.

(5) Establishes the procedure for establishing or changing the zoning designation of any parcel within its jurisdiction.

(6) Establishes the procedure or timing for reviewing and approving development applications.

(b) "Covered state statute" means a state law that addresses a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of this article, and relates to any of the following:

(1) The protection of the environment or natural resources, including, but not limited to any of the following:

(A) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and California Environmental Quality Act Guidelines (Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of Regulations).

(B) The California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(C) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(D) The Porter-Cologne Water Quality Act (Division 7 (commencing with Section 13000) of the Water Code).

(E) The Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2 of the Public Resources Code).

(F) Pollution control or environmental justice laws, rules, or regulations.

(2) The protection of health and safety, including but not limited to, the development of contaminated sites and regulation of hazardous material storage sites.

(3) Emergency response to natural disasters and disaster planning and recovery.

(4) The regulation of the physical structure and the construction of buildings.

(5) The regulation of residential or commercial rents and landlord-tenant relations, including the Ellis Act (Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code) and the Costa-Hawkins Rental Housing Act (Chapter 2.7 (commencing with Section 1954.50) of Title 5 of Part 4 of Division 3 of the Civil Code).

(6) 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 and that the facility addresses a matter of statewide concern.

(7) (A) The development or construction of a water, communication, or transportation infrastructure project for which the Legislature lists the specific reasons explaining how the project addresses the statewide concern and declares that the development is in the best interests of the state.

(B) For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(8) Fair housing matters, including, but not limited to the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), prohibitions against discrimination, or affirmatively furthering fair housing.

(9) Reporting and planning requirements, provided that the requirement does not otherwise impact the ability of a city or county to adopt, or put into effect, a land use planning and zoning law described in paragraph (1). Reporting and planning requirements imposed pursuant to this paragraph shall apply uniformly to all cities and counties and shall not discriminate amongst cities or counties based on voluntary compliance with any land use planning and zoning law adopted by the state.

SEC. 3. 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 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.

(b) A court of competent jurisdiction may determine that a covered state statute addresses a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of this article, and prevails over conflicting land use planning and zoning laws, provided that the Legislature makes a finding that the covered state statute addresses a matter of statewide concern.

(c) (1) State funding appropriated before the effective date of this section shall not be modified due to a city preempting any state law pursuant to this section.

(2) State funding appropriated after the effective date of this section shall not discriminate in favor of, or give any preference to, a city that voluntarily complies with state-adopted land use planning and zoning laws.

(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.

SEC. 4. Section 7 of Article XI of the California Constitution is amended to read:

SEC. 7. (a) (1) A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations ~~not in conflict with general laws~~. *that are not, except as provided in subdivision (b), in conflict with general laws.*

(2) *A county or city shall not supersede or otherwise interfere with any voter approved local initiative.*

(b) (1) *A land use planning and zoning law within the boundaries of the county or city shall prevail over conflicting general laws.*

(2) *A court of competent jurisdiction may determine that a covered state statute addresses a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of this article, and prevails over conflicting land use planning and zoning laws, provided that the Legislature makes a finding that the covered state statute addresses a matter of statewide concern.*

(c) (1) *State funding appropriated before the effective date of this section shall not be modified due to a city or county preempting any state law pursuant to this section.*

(2) State funding appropriated after the effective date of this section shall not discriminate in favor of, or give any preference to, a city or county that voluntarily complies with state-adopted land use planning and zoning laws.

(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.

SEC. 5. Article XXXIV of the California Constitution is repealed.