

Voter Empowerment Act of 2016

SECTION 1. TITLE.

This measure shall be known and may be cited as “The Voter Empowerment Act of 2016.”

SECTION 2. STATEMENT OF FINDINGS AND PURPOSE.

- (a) Government has an obligation to provide essential services that protect the safety, health, welfare, and quality of life enjoyed by all Californians. Unfortunately, state and local governments face a severe financial crisis due to unsustainable compensation and retirement benefits granted to government employees by state and local politicians. Without reform, California taxpayers face a future of a massive public debt requiring the elimination or reduction of even basic essential services.
- (b) Almost all of these disastrous financial decisions were made without the approval or consent of the voters.
- (c) State and local politicians, government agencies, and courts have blocked common-sense efforts to address this financial crisis. Consequently, the need to empower voters and clarify their rights with respect to compensation and retirement benefits for government employees is a matter of statewide concern.
- (d) Therefore, the people hereby amend the Constitution to reserve to themselves the power to approve or reject compensation and retirement benefits of government employees.

SECTION 3. ARTICLE XVI of the California State Constitution is amended to add the following section:

Sec. 23 Notwithstanding any other provision of this Constitution or any other law:

- a) Voters have the right to use the power of initiative or referendum provided in Article II, to determine the amount of and manner in which compensation and retirement benefits are provided to employees of a government employer.
- b) Government employers shall not enhance the pension benefits of any employee in a defined benefit pension plan unless the voters of that jurisdiction approve that enhancement.

- c) Government employers shall not allow new government employees to enroll in a defined benefit pension plan unless the voters of that jurisdiction approve enrollment in such a plan for new employees.
- d) Government employers shall not pay more than one-half of the total cost, including unfunded liability costs, of retirement benefits for new government employees unless the voters of that jurisdiction have approved paying that higher amount for such new employees.
- e) Government agencies and retirement boards must fully and faithfully implement voter approved initiatives that affect government employee compensation and retirement benefits approved by voters, whether placed on the ballot by a government agency or by voters.
- f) Challenges to the legality or application of an initiative and referendum affecting government employee compensation and retirement benefits may only be brought in the courts of California exercising judicial power as provided in Article VI or in the courts of the United States.
- g) Retirement boards shall not impose termination fees, accelerate payments on existing debt, or impose other financial conditions against a government employer that proposes to close a defined benefit pension plan to new members, unless voters of that jurisdiction or the sponsoring government employer approve the fees, accelerated payment, or financial conditions.
- h) Nothing in this section shall alter any provisions of a labor agreement in effect as of the effective date of this Act, but this Section shall apply to any successor labor agreement, renewal or extension entered into after the effective date of this Act.
- i) Nothing in this section shall be interpreted to modify or limit any disability benefits provided for government employees or death benefits for families of government employees, even if those benefits are provided as part of a retirement benefits system. Nothing in this section shall be interpreted to require voter approval for death or disability benefits.
- j) Nothing in this section shall be interpreted to reduce the retirement benefits earned by government employees for work performed.
- k) For the purpose of this section, the following definitions shall be applied:
 - 1) A “new government employee” means an employee hired by a government employer commencing on or after January 1, 2019, regardless of any prior employment status with that or any other government employer. An employee on disability leave from a government employer on January 1, 2019 shall not be

considered a new employee if he or she subsequently return to that same government employer.

2) "Government employer" means the state, or a political subdivision of the state including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, special districts, boards, commissions, the Regents of the University of California, California State University, and agencies thereof.

3) A "defined benefit pension plan" means a plan that provides lifetime payments to retirees and survivors based upon a formula using factors such as age, length of service and final compensation.

4) "Retirement benefits" includes defined benefit pension plans, defined contribution plans, retiree healthcare plans, or any form of deferred compensation offered by government employers.

5) A "benefit enhancement" means any change in a defined benefit pension plan that increases the value of an employee's benefit including, but not limited to, increasing a benefit formula, increasing the rate of cost of living adjustments, expanding the categories of pay included in pension calculations, reducing a vesting period, lowering the eligible retirement age, or otherwise providing an economic advantage for government employees in a defined benefit plan, except for the disability component of any defined benefit plan.

Section 5. General Provisions

a) This Act is intended to be comprehensive. It is the intent of the People that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

b) If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

c) This Act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate its purposes.

d) Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in his or her absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, and on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The fees and costs of defending the action shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.