LAO

65 YEARS OF SERVICE

February 25, 2010

Proposition 16: New Two-Thirds Vote Requirement For Local Public Electricity Providers

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Energy, Utilities and Communications Committee

Hon. Alex Padilla, Chair

Assembly Utilities and Commerce Committee

Hon. Felipe Fuentes, Chair

LAO
65 YEARS OF SERVICE

Summary and Background

☑ Summary

- Proposition 16 would place new voter approval requirements on local governments before they can use "public funds"—defined broadly in the measure to include tax revenues, various forms of debt, and ratepayer funds—to start up electricity service, expand electricity service into a new territory, or implement community choice aggregation.

☑ Background

- ***California Electricity Providers.*** Californians generally receive their electricity service from one of three types of providers:
  - Investor-owned utilities (IOUs), including PG&E, Southern California Edison, and San Diego Gas and Electric, which provide 68 percent of retail electricity service.
  - Local, publicly owned utilities, such as Sacramento Municipal Utility District and Los Angeles Department of Water and Power, which provide 24 percent of retail electricity service.
  - Electric service providers, which provide 8 percent of retail electricity service.

Summary and Background *(Continued)*

- ***Community Choice Aggregation.*** In addition, state law allows a city, county, or a combination of the two, to arrange to provide electricity within their jurisdiction through a contract with an electricity provider other than the IOU that would otherwise serve that local area. There is currently only one community choice aggregator (CCA) in the state.

- ***Creation and Expansion of Publicly Provided Electricity Services—Current Voter Approval Requirements.*** In recent years, a limited number of local governments have explored expanding publicly owned utilities into new territory currently served by an IOU. State law provides for the following vote requirements for such activity:

  – If a local government intends to *expand* its electricity service into new territory, that new area must be annexed and, in certain cases, a majority of voters in the area proposed for annexation must approve the expansion.

  – In contrast, local agency action to *create and begin implementation of a CCA* may be undertaken upon a vote of the local agency governing board and does not require local voter approval.

LAO
65 YEARS OF SERVICE

Proposition 16's Provisions

☑ ***Places New Voter Approval Requirements on Local Governments Before They Can Use Public Funds to Start Up Electricity Service, Expand Electricity Service Into a New Territory, or Implement a CCA.*** Specifically:

- First, before an authorized local government entity can start up electricity service (for example, some local governments may have unexercised statutory authority to provide this service), it must receive approval by two-thirds of the voters in the area proposed to be served.
- Second, before an existing publicly owned utility can expand its electric delivery service into a new territory, it must receive approval by two-thirds of the voters in the area currently served by the utility and two-thirds of the voters in the new area proposed to be served.
- Third, the measure requires two-thirds voter approval for a local government to implement a CCA.

LAO
65 YEARS OF SERVICE

Fiscal Impact of Proposition 16

State and Local Government Cost and Revenue Impacts

☑ **Minor Local Administrative Costs for Elections.**

- Because the measure requires voter approval for specified local government actions that can currently be accomplished without such votes, it would result in additional elections costs. These costs are probably minor.

☑ **Potential Impact on State and Local Government Costs and Revenues—Unknown, but Unlikely to be Significant in the Short Run.**

- The measure could affect local government costs and revenues due to potential effects on the operation of publicly owned utilities and CCAs. For example, to the extent that the measure serves to deter or prohibit local government plans to expand their electricity service, then these public operations would be smaller in size and have lower total revenues and costs than would otherwise be the case.

- The measure could also affect the finances of state and local government agencies due to its potential impact on electricity rates. Electricity rates in certain areas of the state could be higher or lower as a result of the measure. Changes in electricity rates affect government costs (since the government is a consumer of electricity) and government tax revenues (due to the impact of electricity rates on business profit, sales, and income).

☑ **Bottom Line:**

- The net fiscal effect on state and local government finances is unlikely to be significant on a statewide basis in the short run, due to the relatively limited number of local government agencies considering start-up or expansion of electricity services into new territory.

- In the long run, the net fiscal effect of the measure is unknown and would depend on future actions of local governments and voters.