The Blattner doctrine: resolving nested initiative purposes

Overview

California courts have clarified what subjects the electorate can legislate on, how they may do so, and under what circumstances the legislature can amend initiative statutes. But the courts lack an analysis for divining the electorate's purpose when an initiative makes changes to an earlier initiative act. This nested initiatives issue recurs frequently, because initiative statutes often amend earlier initiatives, and because most California ballot measures are challenged in court.[1] This article explains how nested initiatives occur, shows why their frequency is likely to increase, and analyzes how one Court of Appeal decision approached nested purposes in *Howard Jarvis Taxpayers Association v. Newsom*.[2] It then argues that *Howard Jarvis* employed a faulty analysis that relied on judicial inferences of electoral intent, rather than textual intent language, and that the better approach is to follow explicit declarations of purpose. This issue has implications far beyond the adjudicated initiatives themselves, because an initiative's purpose can preclude legislative action across a broad swath of issues.

Analysis

The electorate can set limits on future legislative amendments

The general rule when the electorate and the legislature interact is that the electorate controls the outcome. California constitution article II describes the electorate's reserved legislative power.[3] And article IV describes the legislature's plenary legislative power.[4] The two lawmaking powers are broadly equivalent.[5] Yet there are some differences between their respective legislative powers; here the relevant distinction is that the legislature is barred from amending an initiative, unless the initiative's language grants the legislature permission to amend it.

Any legislative statute that operates within an initiative's scope is considered an initiative amendment.[6] Although the legislature may not operate within the scope

of an initiative statute without permission from the electorate, the legislature remains free to address a "related but distinct area," or a matter that an initiative measure "does not specifically authorize *or* prohibit."[7] When evaluating whether a statute made an amendment that impacts an initiative, courts "ask whether it prohibits what the initiative authorizes, or authorizes what the initiative prohibits."[8] Legislative statutes are presumed to not amend initiatives.[9] But the courts also apply a countervailing presumption to "jealously guard the people's initiative power, and hence to apply a liberal construction to this power wherever it is challenged in order that the right to resort to the initiative process be not improperly annulled by a legislative body."[10]

Ballot measures commonly grant the legislature some room for alterations, so long as that alteration furthers the measure's purpose.[11] Between 2000 and 2006, 15 of 18 (83%) initiative statutes that qualified for the ballot allowed for legislative amendment.[12] The most recent cycle is no different: six of the seven ballot measures on the 2020 ballot that would have added new initiative statutes allowed legislative amendment.[13]

When an initiative does allow legislative amendments within the initiative's scope, such amendment can be done "only upon whatever conditions the voters attached to the legislature's amendatory powers."[14] If the ballot measure's language is clear, courts presume the voters intended the meaning apparent from that language, and the legislature "may not add to the statute or rewrite it to conform to some assumed intent not apparent from that language."[15] But if the language is ambiguous, courts will consider ballot summaries and arguments in determining the voters' intent.[16]

Nested initiatives present an unresolved problem

For a single initiative — standing alone and never amended by the electorate — determining the scope of permitted legislative amendment is a relatively simple task. But interpretation becomes difficult when later electorate action makes it unclear what purpose binds the legislature. Initiatives often supplement, amend, or repeal other previous initiatives. This situation is called a nested initiative, which occurs when one large initiative is amended by a later, narrow initiative. There is no

definitive case law on how a court should determine the electorate's intent in that scenario.

The nested initiative problem occurs because initiative statutes often amend previous initiative statutes. The Political Reform Act is one example. The PRA was instituted by Proposition 9 in 1974. Three later initiatives amended the PRA: Proposition 73 in 1998, Proposition 208 in 1996, and Proposition 34 in 2000. The original PRA included a further-the-purpose provision,[17] and the legislature has used it to amend the PRA over 200 times.[18] Combined, these four initiative statutes and hundreds of legislative statutes have created a maze of underlying purposes throughout the PRA. As shown in the table below, some sections are split between the four ballot measures:

Prop.	Year	Purpose Found in Ballot Measure	Scope

Original PRA (Prop 9)[19]	1974	(a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited. (b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials. (c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided. (d) The state ballot pamphlet should be converted into a useful document so that voters will not be entirely dependent on paid advertising for information regarding state measures. (e) Laws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly. (f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced. [20]	All §§ 81000-91014, except those listed below
Prop 73[21]	1988	NONE LISTED IN TEXT	§§ 82041.5, 85300, 85400-85501

Prop 208[22]	1996	(a) To ensure that individuals and interest groups in our society have a fair and equitable opportunity to participate in the elective and governmental processes. (b) To minimize the potentially corrupting influence and appearance of corruption caused by excessive contributions and expenditures in campaigns by providing for reasonable contribution and spending limits for candidates. (c) To reduce the influence of large contributors with a specific financial stake in matters before government by severing the link between lobbying and campaign fundraising. (d) To lessen the potentially corrupting pressures on candidates and officeholders for fundraising by establishing sensible time periods for soliciting and accepting campaign contributions. (e) To limit overall expenditures in campaigns, thereby allowing candidates and officeholders to spend a lesser proportion of their time on fundraising and a greater proportion of their time communicating issues of importance to voters and constituents. (f) To provide impartial and non coercive incentives that encourage candidates to voluntarily limit campaign expenditures. (g) To meet the citizens' right to know the sources of campaign contributions, expenditures, and political advertising.	§§ 82039, 84501, 84502, 84503, 84505, 84509, 84510, 85802

Prop 34[23]	2000	(1) To ensure that individuals and interest groups in our society have a fair and equitable opportunity to participate in the elective and governmental processes. (2) To minimize the potentially corrupting influence and appearance of corruption caused by large contributions by providing reasonable contribution and voluntary expenditure limits. (3) To reduce the influence of large contributors with an interest in matters before state government by prohibiting lobbyist contributions. (4) To provide voluntary expenditure limits so that candidates and officeholders can spend a lesser proportion of their time on fundraising and a greater proportion of their time conducting public policy. (5) To increase public information regarding campaign contributions and expenditures. (6) To enact increased penalties to deter persons from violating the Political Reform Act of 1974. (7) To strengthen the role of political parties in financing political campaigns by means of reasonable limits on contributions to political party committees and by limiting restrictions on contributions to, and expenditures on behalf of, party candidates, to a full, complete, and timely disclosure to the public	§§ 82016, 82053, 83116, 83116.5, 83124, 84204, 84511, 85100, 85200-85206, 85301-85319, 85600-85601, 85700-85704, 89510, 89519, 91000, 91004, 91005.5, 91006

In the PRA context, the source of a statute's chapter or section is crucial in determining whether and how it can be amended by the legislature. Because the four PRA initiatives above have four different purpose descriptions, a legislative statute may conform with one measure's purpose, but not another's. The Court of Appeal confronted that problem in *Howard Jarvis Taxpayers Association v. Newsom*.[24] Its attempt at a solution is described next, followed by an explanation of why that attempt was unsuccessful.

The Court of Appeal attempted to craft a solution to the nested initiatives problem

Proposition 73 in 1988 was the first initiative statute to successfully amend the PRA. The measure's title described its three primary provisions: "Campaign Funding. Contribution Limits. Prohibition Of Public Funding."[25] Proposition 73's contribution limits were struck down in federal court on free speech grounds.[26] But its ban on public financing of elections remained.[27] In 2016, however, the legislature amended section 85300 (the section Proposition 73 had amended to prohibit using public funds for seeking elective office).[28] This new statute, SB 1107, allowed state and local government entities to create dedicated public election finance funds and allowed candidates to conditionally receive money from those funds.[29] The statement of purpose in Proposition 73 claimed that it furthered the PRA's purposes — particularly section 81002(e)'s statement that "[l]aws and practices unfairly favoring incumbents should be abolished in order that elections may be conducted more fairly."

Howard Jarvis Taxpayers Association challenged SB 1107 as an impermissible legislative amendment of Proposition 73 (not of Proposition 9, the original PRA), which first added the ban on public financing. That exemplifies the phenomenon of nested initiatives: a sweeping initiative (here, the PRA) that is revised by later, more specific initiatives (here, Proposition 73). The legislature argued that the purpose of the original PRA (1974 Proposition 9) controlled, while Howard Jarvis argued that the purpose of 1988 Proposition 73 controlled.

The Court of Appeal upheld an injunction, holding that "Senate Bill No. 1107 directly conflicts with a primary purpose and mandate of the Act, as amended by subsequent voter initiatives, to prohibit public funding of political campaigns."[30] The decision relied heavily on *Amwest Surety Insurance Co. v. Wilson,* where the California Supreme Court held that "[when] a constitutional amendment is subject to varying interpretations, evidence of its purpose may be drawn from many sources, including the historical context of the amendment, and the ballot arguments favoring the measure." [31] Applying *Amwest* and reading the ballot measure summary, the court held that prohibiting public financing was a major purpose of Proposition 73, and that the legislative amendment was contrary to that measure's purpose. That

approach produced a reasonable result for the facts presented. But as discussed below, the *Howard Jarvis* approach is not well-suited to broad future application.

Why the *Howard Jarvis* approach is wrong

The problem with the *Howard Jarvis* approach is that it fails to give the electorate's stated purpose its due weight. Purpose language is substantive law created by the electorate, and it should not be contradicted by judicial inference.

Amwest is weak authority for a broad interpretive rule that resolves nested purpose problems. That case was very different from *Howard Jarvis*. In *Amwest*, the court considered whether a legislative statute furthered the purpose of 1988 Proposition 103, a constitutional amendment that did not affect any previous initiative-created law — instead, resolving *Amwest* required only a simple comparison between one initiative and a later legislative act. By contrast, in *Howard Jarvis* the question was whether the electorate intended Proposition 73 to supplant, supplement, or change the purposes of several previous initiative statutes. That distinction makes *Amwest* at best weak authority for parsing intent in nested initiatives.

Compounding the analytical error, in *Howard Jarvis* the court conflated the purpose of three acts, both initiative and legislative: Proposition 73, the PRA, and section 85300. It held that SB 1107 "directly conflicts with a primary purpose and mandate of the Act," implying that the purpose of the PRA matters, not the purpose of Proposition 73.[32] Yet the court applied its interpretation of Proposition 73's purpose over the PRA's explicit purpose section. This failure to sort the various measures into a hierarchy makes it impossible for future courts to employ a similar analysis, because the analysis is unclear.

Instead, the Court of Appeal should have asked: Why does Proposition 73's purpose matter in isolation? When an amending initiative operates entirely within the parameters of an older nesting initiative that has purpose language, while the new amending initiative is silent on its own purpose, principles of both textual analysis and probable intent support relying on the original act's purpose language. Statutory construction presumes that a later statute modifies the earlier.[33] But when only part of the original initiative is affected by the later amendment, courts are not to consider that part as having been repealed and reenacted in the amended

form. Instead, the portions that are not altered "are to be considered as having been the law from the time when those provisions were enacted; the new provisions are to be considered as having been enacted at the time of the amendment; and the omitted portions are to be considered as having been repealed at the time of the amendment."[34] Those principles, applied to *Howard Jarvis*, mean that the second initiative's purpose overrides the first initiative's purpose only where the two conflict within the scope of the second initiative, but the second initiative otherwise has no effect on the first initiative's purpose.

That sounds complex, but sorting out the electorate's intent is necessary to give it maximum effect. And it will not always be so complicated; an initiative's purpose is usually textual. The problem in *Howard Jarvis* was particularly difficult because Proposition 73 has no statement of purpose. The question then is whether the electorate intended the encompassing act (here, the PRA) to retain its purpose throughout, or did it intend the newly created parts of the act to have separate purposes? Because the electorate certainly had some purpose for passing the amending initiative, and its provisions are clear evidence of the electorate's intent in passing them, the *Howard Jarvis* decision assumed that the electorate's enactment of Proposition 73 was itself proof that the electorate wanted its new provisions to control the purpose of future legislative amendments.

But on balance, the arguments for having the first initiative's purpose control are better. The amending initiative usually does not need to be placed within the text of the first initiative act. The choice to place it within the first act implies that the second has a subsidiary relationship to the first. And it is easy and common to include a purpose section in a ballot measure. Most ballot measures contain explicit purpose language, and a measure's drafters are surely aware of the convention. Thus, the decision to omit purpose language is unusual enough to imply an intentional omission. The specific context of *Howard Jarvis* supports this presumption that voters intended the first, encompassing measure's purpose to control. Not only did Proposition 73 have no statement of purpose, it authorized legislative amendment by confirming that the amendment mechanism in the original PRA controlled.[35] This does not incorporate a provision from the PRA at large — it goes further, and clarifies that the provisions of the larger act are still controlling over the subsequent amending initiative.

Policy implications also support erring on the side of the first initiative's purpose, absent clear evidence of new, different electorate intent.[36] Purpose language shows the electorate's intent, and having a straightforward, explicit declaration that the electorate voted on is the surest way to guarantee accuracy. Purpose language is usually stated plainly — in contrast to the rest of the text with its opaque statutory language. Purpose language is also traditionally placed conspicuously at the front of a statute's text, where it is easy for voters to find and read.[37] Relying on courts to divine the electorate's intended purpose from the often-byzantine provisions buried later in the statute gives a less accurate impression of the electorate's true understanding and intent. A rule that encourages initiative drafters to put purpose language in the text is not only good law, it's good policy.

Finally, the *Howard Jarvis* court's framework raises a separation-of-powers concern. The *Amwest* approach of reading purpose through "many sources, including the historical context of the amendment" gives courts significant power.[38] This broad interpretation makes sense when an initiative exists in a vacuum, given that the default rule is that the legislature is barred from amending initiatives. But in the case of nested initiatives, the judiciary would actually be overriding the electorate's initial, unchanged intent. And the courts are very reluctant to impair the initiative power.[39] It was the electorate that passed the first initiative, defined its purposes, and authorized legislative amendment consistent with those purposes. So while ordinarily (absent a clear statement of intent) the judiciary's interpretive discretion is necessarily broad, here the very absence of a later modifying statement of intent restricts judicial interpretation to the original statement of intent.

Courts should determine purpose by requiring a clear statement of new intent

I propose a test for determining whether and how the legislature may amend an initiative. The guiding principle is that courts should apply a different framework when interpreting the purpose of an initiative statute. Initiative purposes fundamentally differ from the purposes of legislative statutes, which are not necessarily binding on courts.[40] The purpose of a legislative statute may affect whether that statute itself is valid, and it may affect how courts interpret its terms. But the purpose of an initiative statute is more significant. The legislature may not

amend an initiative statute "unless the initiative permits such amendment, and then only upon whatever conditions the voters attached to the legislature's amendatory powers." [41] In most initiatives, these "conditions" take the form of further-the-purpose requirements for future legislative amendments, so by itself the purpose of an initiative statute can have sweeping preclusive effect on future legislative statutes.

That preclusive effect flows from the fact that the legislature can only amend an initiative if the amendment is consistent with the initiative's conditions for amendment. In most cases, the initiative's key condition for amendment is compliance with the initiative's purpose, and courts will invalidate any legislative amendment that is inconsistent with a measure's purpose as an infraction on the electorate's power. The initiative's purpose determines which future legislative acts are constitutional, and is therefore substantive law. The upshot is that an initiative's purpose can have field preclusion effect, while the legislature's purpose can result in the law's invalidation.

Because it is "the duty of the courts to jealously guard" the electorate's power to legislative by initiative, courts should adopt a clear, textual test to evaluate the electorate-created substantive law contained in the purpose of initiative statutes.[42] My proposed test for determining the controlling purpose is as follows. (Note that prongs 1 and 2 merely restate existing law.)

1. If the legislative statute is not within the scope of an initiative statute, it is valid.
    - A legislative statute's scope is determined by either:
        - Authorizing what the initiative prohibited or prohibited what the initiative authorized, OR
        - Amending the actual text of the initiative.
2. If the legislative act is within the scope of an initiative statute, then the initiative's provisions for amendment control.
    - If the initiative does not allow for legislative amendment, then the legislative act is invalid.
    - If the initiative does allow for legislative amendment, these amendments must comply with the initiative's terms (in practice,

usually furthering the initiative's purpose and reaching a certain higher vote threshold).

3. Whenever possible, the purpose of an initiative-created law is determined from its text.
    - Where there is a purpose section in the initiative that created the law, that section is conclusive, even against contrary purpose statements in earlier, related initiatives.
    - If there is no purpose section in the initiative that created the law, but that new initiative operated within the scope of and amended an old initiative, and that old initiative has a purpose section, then the purpose section of the old initiative controls.
    - If there is no purpose section in the initiative that created the law, and that initiative did not operate within the scope of an old initiative, then ordinary interpretation methods apply.

This test's central focus — treating purpose as law that requires textual justification — is especially important due to the prevalence of severance clauses. For example, nearly every measure on the 2020 ballot contained severance language.[43] This means that purpose, which typically has its own section, will survive legal challenges that strike the more obviously invalid provisions of initiatives, because initiative purpose sections alone are so rarely unconstitutional.[44]

The nested purpose problem likely will present more frequently. For example, in 2020 Proposition 22 self-defined its scope as encompassing any statute that "imposes unequal regulatory burdens upon app-based drivers" or "authorizes any entity or organization to represent the interests of app-based drivers."[45] If future ballot measure drafters similarly define their purpose expansively, they could create wide one-way ratchets to preclude legislative action in whole sectors of the law. That may require courts to choose between legal fiction or struggling to apply ill-suited doctrines like the amendment–revision or single-subject rules to sweeping declarations of purpose.[46]

Adopting my proposed analysis would encourage courts to view purpose, and purpose language, as autonomous substantive law requiring text to justify its power — law that could, in some circumstances, constitute a revision. It also has the

benefit of clarity. This approach will encourage ballot measure drafters (the vast majority of whom already include purpose language in their statutes) to more carefully draft the purpose section, giving voters a clearer perspective on the initiative and legislators a clearer perspective on if, when, and how they may amend the initiative.

How this framework would have upheld SB 1107

Applied to the facts of *Howard Jarvis*, my proposed approach would generate the opposite result, and uphold SB 1107 — which operated within the scope of the PRA because it amended one of its sections. It was therefore a legislative amendment to an initiative. So, applying section 3 of the framework:

- Whenever possible, the purpose of an initiative-created law is determined from its text.
    - Where there is a purpose section in the initiative that created the law, that section is conclusive.

Section 85300 was created by Proposition 73 and had not since been amended. But Proposition 73 had no explicit declaration of purpose. That requires applying this part of my proposed analysis:

- If there is no purpose section in the initiative that created the law, but that initiative (the new initiative) operated within the scope of and amended an old initiative, and that old initiative has a purpose section, then the purpose section of the old initiative controls.

Here, Proposition 73 operated within the scope of the PRA. It framed its changes as amending the PRA, created no law outside the PRA, and relied on the PRA's legislative amendment authorization section. The PRA does have an explicit purpose section, which Proposition 73 did not amend. Therefore, under the final section of my proposed approach, the PRA's purpose section controls:

- If there is no purpose section in the initiative that created the law, and that initiative did not operate within the scope of a prior initiative, then courts may infer purpose from other sources, including the text of the statute and the ballot pamphlet (as is prior law).

Because there is an explicit, textual purpose section, courts should not impose their own purpose on this initiative. The electorate's words control, not the judiciary's: "the voters should get what they enacted, not more and not less."[47]

Conclusion

When voters enact a broad initiative statutory scheme, then amend that scheme with smaller measures, it can be difficult to parse the electorate's evolving purpose. It will only become more difficult for the legislature to thread the needle of permitted amendment, as proponents employ creative new ways to set requirements for amendment. And as *Howard Jarvis* shows, the courts are already struggling to define these boundaries. These problems can be mitigated, however, by abandoning the *Howard Jarvis* approach of applying new, implicit purposes and ignoring earlier, textual purpose language. Courts can only observe the appropriate degree of respect for the initiative process by giving each electorate act its intended effect. That requires using a textual framework for analyzing scope and purpose, like the approach suggested here.

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[1] Kenneth P. Miller, The Role of Courts in the Initiative Process: A Search for Standards (1999); Dean P. Lacy and Carlos Mejia, Lacy, Dean P. and Mejia, Carlos, Undoing the Initiative: When are Ballot Measures Challenged in Court, and When Do Judges Overturn Them? (2009).

[2] *Howard Jarvis Taxpayers Assn v. Newsom* (2019).

[3] Cal. Const., art. IV, § 1 ("The legislative power of this State is vested in the California legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum.")

[4] Ibid.

[5] *Legislature v. Deukmejian* (1983) at 673.

[6] *See People v. Superior Court (Pearson)* (2010) at 570–71.

[7] *People v. Kelly* (2010) at 1025–26 (quotations and citations omitted).

[8] *Pearson* at 571.

[9] *Kelly* at 1047 (quoting *Dittus v. Cranston* (1959) at 286) ("[T]he presumption is in favor of constitutionality, and the invalidity of the legislation must be clear before it can be declared unconstitutional.")

[10] *Kelly* at 1025.

[11] These provisions also usually require a higher vote threshold than the usual 50%+1 for amendments to pass. *See* Political Reform Act of 1974, § 81012 ("This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor.")

[12] *Kelly*at 1042 n.59.

[13] All original research, compiled directly from the text of the initiative statutes found on the Secretary of State's website.

[14] *Prop. 103 Enforcement Project v. Quackenbush* (1998) at 347–48.

[15] *Pearson* at 571.

[16] *Ibid*.

[17] Gov. Code § 81012 ("This title may be amended to further its purposes by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor.").

[18] *Kelly*at 1042 n.59. This frequency has continued since *Kelly* was written. For example, there are twelve separate Senate and Assembly bills amending the PRA which took effect on January 1, 2020. See Cal. Fair Political Practices Com., *Recent*

Changes to the Political Reform Act.

[19] Ballot Pamp., Primary Elec. (June 4, 1974) at 34 (text of Prop. 9).

[20] Proposition 9 originally had one more purpose: "The amounts that may be expended in statewide elections should be limited in order that the importance of money in such elections may be reduced." The legislature amended this subsection out after the United States Supreme Court struck down several of Prop 9's campaign expenditure limits as violative of the First Amendment in *Buckley v. Valeo* (1976).

[21] Ballot Pamp., Primary Elec. (June 7, 1988) at 32 (text of Prop. 73).

[22] Ballot Pamp., General Elec. (November 5, 1996) at 26 (text of Prop. 208).

[23] Ballot Pamp., General Elec. (November 7, 2000) at 12 (text of Prop. 34).

[24] *Howard Jarvis Taxpayers Assn.*

[25] Ballot Pamp., Primary Elec. (June 7, 1988) at 32 (text of Prop. 73).

[26] *Service Employees Intl. Union v. Fair Political Practices Comm.* (9th Cir. 1992).

[27] Charter cities are exempt from the ban on public financing of elections. *Johnson v. Bradley* (1992).

[28] Sen. Bill No. 1107 (2015–2016 Reg. Sess.).

[29] "(a) Except as provided in subdivision (b), a public officer shall not expend, and a candidate shall not accept, any public moneys for the purpose of seeking elective office.
(b) A public officer or candidate may expend or accept public moneys for the purpose of seeking elective office if the state or a local governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter, and both of the following are true:
(1) Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference.
(2) The state or local governmental entity has established criteria for determining a

candidate's qualification by statute, ordinance, resolution, or charter." *Ibid*.

[30] *Howard Jarvis Taxpayers Assn.* at 162.

[31] *Amwest Surety Insurance Co. v. Wilson* (1995) at 1256 (quotations and citations omitted).

[32] *Howard Jarvis Taxpayers Assn.* at 162.

[33] Gov. Code § 9605.

[34] Gov. Code § 9605(a).

[35] Ballot Pamp., Primary Elec. (June 7, 1988) at 33 (text of Prop. 73, § 85103) ("The provisions of Section 81012 shall apply to the amendment of this chapter.")

[36] See *California Cannabis Coalition v. City of Upland* (2017) at 946 ("we require clear evidence of an intended purpose to constrain exercise of the initiative power"); *Briggs v. Brown* (2017) at 835 (electorate intent to divest courts of jurisdiction must be "clearly intended"); *Professional Engineers in California Government v. Kempton* (2007) at 830 (initiative demonstrated "a clear intent by the electorate to supersede prior law").

[37] See the above chart. The purposes were all found in the second or third sections, often out of dozens, where the first section is nearly almost a short title.

[38] *Amwest Surety. Insurance Co. v. Wilson* (1995) at 1256.

[39] *Associated Home Builders, Inc. v. City of Livermore* (1976) at 591.

[40] *Logan v. Shields* (1923) 190 Cal. 661, 664 ("a legislative declaration, whether contained in the title or in the body of a statute, that the statute was intended to promote a certain purpose is not conclusive on the courts").

[41] *Pearson* at 568.

[42] *Associated Home Builders*at 591.

[43] See chart above (the exception is Proposition 16, which only repealed and

created no new language).

[44] There is the rare exception: for example, limits on campaign expenditures, a purpose of the original PRA that the Supreme Court struck down in *Buckley v. Valeo* (1976). But for the most part, purpose is stubbornly durable.

[45] Ballot Pamp., General Elec. (November 3, 2020) at 30 (text of Prop. 22).

[46] See David A. Carrillo, Stephen M. Duvernay, and Brandon V. Stracener, California Constitutional Law: Popular Sovereignty (2017) 68 Hastings L. J. 731 (explaining the limitations of the amendment–revision or single-subject rules and how courts struggle to apply them in cases that are ill-suited to resolution with those rules).

[47] Hodges v. Superior Court (1999) at 888.