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Proposition 7:

Conforms California Daylight Saving Time to Federal Law. Allows Legislature to Change Daylight Saving Time Period

Legislative Statute

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I. EXECUTIVE SUMMARY

Proposition 7 was put on the ballot by the Legislature to change the daylight saving laws in California. Proposition 7 proposes to repeal the Daylight Saving Time Act of 1949, enacted through the voter initiative process and replace the language to replicate the federal laws that California must follow regarding daylight saving time. Proposition 7 also gives the Legislature the ability to ask the federal government to allow California to have daylight saving time year-round, rather than changing clocks twice a year.

A “yes” vote would allow the Legislature to update the current daylight saving language and allow the Legislature to vote to ask the federal government to have daylight saving time year-round. A “yes” vote does not guarantee that California would be able to stop changing the clocks twice a year, because the Legislature may not have enough votes to ask the federal government for year-round daylight saving time, or the federal government could say no. The Legislature would not have to ask the voters for permission to change daylight saving laws in the future.

A “no” vote would not change anything because California must follow the federal government’s daylight saving time laws, even if California’s law is different. The Legislature would not have the ability to change daylight saving laws without voter approval in the future.

II. THE LAW

A. Background

In 1949, California voters adopted Proposition 12, an initiative titled "An Act Providing For Daylight Saving Time in the State of California."¹ Passage of what became known as the Daylight Saving Time Act of 1949 added Sections 6807-1 through 6807-5 to the California Government Code.² The key provisions established United States Standard Pacific Time as standard time within California and provided that time advance one hour during a period from the last Sunday in April until the last Sunday in September.³ In the 1962 Primary Election, California voters passed Proposition 6.⁴ Proposition 6 amended the Daylight Saving Time Act and extended the period of daylight saving time through the last Sunday in October, rather than the last Sunday of September.⁵

In 1966, the United States Congress passed the Uniform Time Act.⁶ The Uniform Time Act provided for nationwide daylight saving time, established standards by which states could

¹ University of California, Hastings College of Law, *1949: Voter Information Guide for 1949, Special Edition*, https://repository.uhastings.edu/cgi/viewcontent.cgi?article=1502&context=ca_ballot_props (last visited Oct. 7, 2018).

² CAL. GOV. CODE §§ 6807-1–6807-5 (2008).

³ University of California, Hastings College of Law, *supra* note 1.

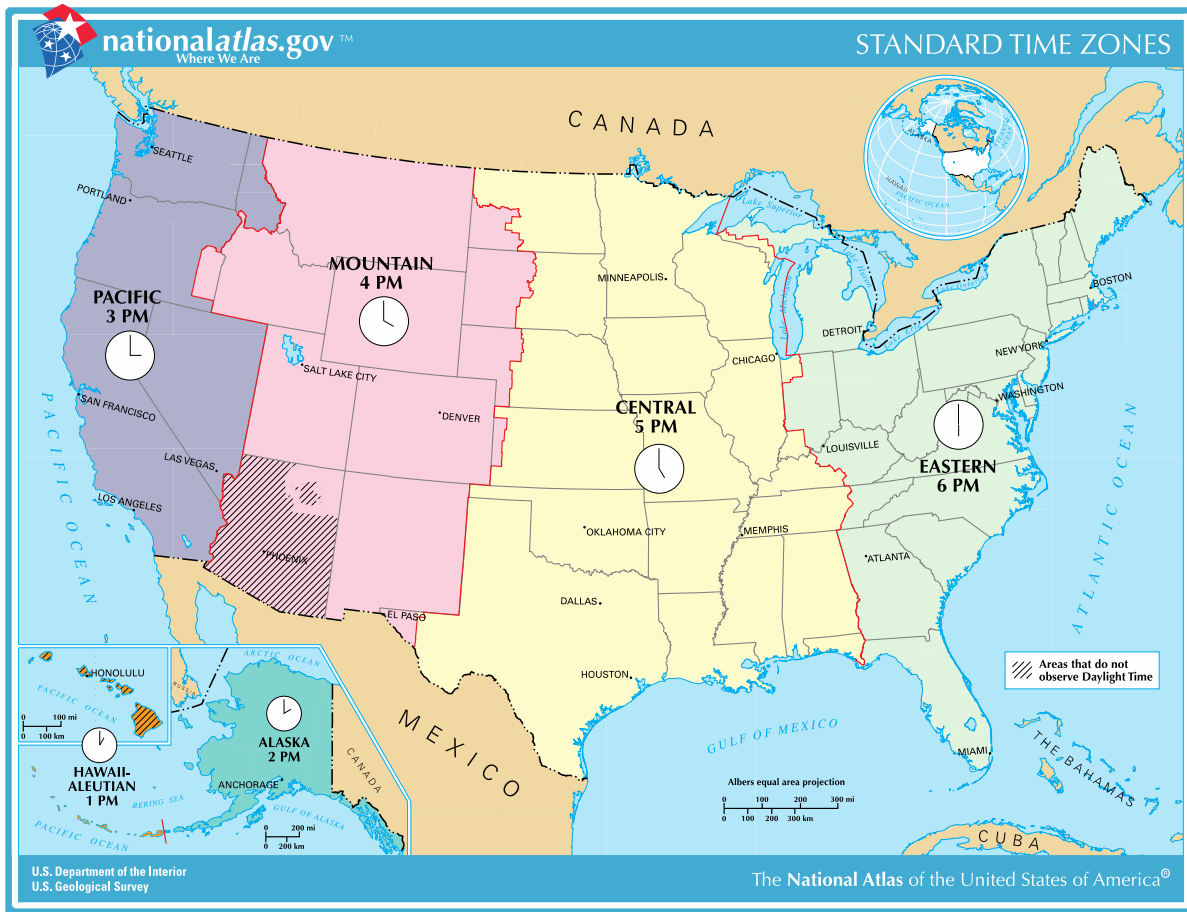
⁴ University of California, Hastings College of Law, *1962: Voter Information Guide for 1962, Primary*, https://repository.uhastings.edu/cgi/viewcontent.cgi?article=1657&context=ca_ballot_props (last visited Oct. 7, 2018).

⁵ CAL. GOV. CODE § 6807-3 (2008).

⁶ 15 U.S.C. § 260a (2009).

seek exemptions, and explicitly stated that it was the "express intent of Congress" that the Act supersede "any and all" state laws.⁷ With passage of the Uniform Time Act, California law was effectively replaced by the federal law.⁸ As a result, the period for daylight saving time is now from the second Sunday in March until the first Sunday in November despite the fact that the California Government Code still contains the old dates.⁹

Figure 1: Standard Time Zones with Daylight Saving Time Observation Established By the Uniform Time Act¹⁰



B. Path to the Ballot

The California Constitution provides the procedure by which the Legislature can repeal an initiative statute.¹¹ According to the California Constitution, the Legislature “may amend or

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ United States Geologic Survey, *Time Zones map of the United States*, https://nationalmap.gov/small_scale/printable/timezones.html - one (last visited Oct. 9, 2018).

¹¹ Cal. Const. art. 2, §10.

repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without the electors' approval."¹² Because the Daylight Saving Time Act was passed through the initiative process and does not allow for repeal without voter approval, it can only be replaced or repealed by another statute passed by the voters.¹³

Proposition 7 began as Assembly Bill 807 introduced to the State Assembly on February 15, 2017, and was approved June 1, 2017.¹⁴ The bill was amended by the State Senate Energy, Utilities, and Communications Committee and approved by the State Senate on June 18, 2018.¹⁵ The State Assembly concurred with the Senate's changes on June 21, 2018.¹⁶ One week later, on June 28, 2018, Governor Jerry Brown signed and certified the initiative for the November 2018 election.¹⁷

III. PROPOSED LAW

California's current daylight saving time law, the Daylight Saving Time Act, does not allow the California legislature to update the language in the current statute or ask the federal government to stop the twice per year time change.¹⁸ Since the Daylight Saving Time Act was enacted through a voter initiative,¹⁹ the Legislature needs voter approval to change the current California daylight saving time language to match the 2005 federal language and to ask Congress to change to year-round daylight saving time.²⁰

Proposition 7 proposes to do three things: 1) it repeals parts of the Daylight Saving Time Act; 2) it changes the dates for daylight saving time in the California Government Code so that they are the same as those provided by the Uniform Time Act; and 3) it gives the Legislature control over daylight saving time laws to the maximum extent allowable by federal law.

Proposition 7 repeals Sections 1 through 5 of the Daylight Saving Time Act.²¹ The repeal of these sections of the Daylight Saving Time Act would allow the legislature to control changes to daylight saving time because the voter initiative would be replaced by the proposed legislative initiative and no longer require voter approval to any daylight saving changes.²²

¹² *Id.*

¹³ University of California, Hastings College of Law, *supra* note 1.

¹⁴ Complete Bill History of AB-807 Daylight saving time, https://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml?bill_id=201720180AB807 (last visited Oct. 7, 2018).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ CAL. GOV. CODE §§ 6807-1–6807-4; SENATE FLOOR ANALYSIS OF AB 807 (May 15, 2018), https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB807 (last visited Oct. 7, 2018).

¹⁹ CAL. GOV. CODE §6807-1.

²⁰ Cal. Const. art. 2, § 8.

²¹ Cal. Proposition 7 §§ 3-7 (2018); CAL. SEC'Y OF STATE, OFFICIAL VOTE INFORMATION GUIDE: CALIFORNIA GENERAL ELECTION, TUESDAY, NOVEMBER 6, 2018, at 8, *available at* <https://vig.cdn.sos.ca.gov/2018/general/pdf/complete-vig.pdf>.

²² Cal. Proposition 7 §§ 3–8 (2018).

If passed, Proposition 7 would allow the Legislature to consider year-round daylight saving time. Proposition 7 asks voters for permission for the Legislature to consider changing California to year-round daylight saving time by focusing on the potential benefits or disadvantages to “ending the biannual time change.”²³ If Proposition 7 passes then the Legislature will continue discussions and research the impacts of California changing to year-round daylight saving time.²⁴ After research and discussion, the Legislature would need two-thirds (2/3) vote of the Legislature to ask the federal government if California can change to have year-round daylight saving time.²⁵ The voters will not be asked again for their approval of year-round daylight saving time.²⁶ If the California Legislature is unable to get enough votes, or the federal government denies California’s request to have year-round daylight saving time, then California will continue to follow the same federal and state daylight saving time schedule.

Proposition 7 would update that language to be consistent with the federal Uniform Time Act, which requires that daylight saving time begins on the second Sunday of March and ends on the first Sunday of November.²⁷ Even though the dates in the current California law are different than the dates in the federal law, California is required to follow the federal dates under the Uniform Time Act.²⁸ There are likely no practical impacts if California does not update the daylight saving time language because of the federal requirements, but it is best practice to ensure that the state’s daylight saving time language is consistent with the federal language.

IV. CONSTITUTIONAL ISSUES

A. Federal Constitution Issues

Proposition 7 does not raise any issues that would conflict with the federal Constitution because the Uniform Time Act states that the federal law will override any state law that conflicts with it.²⁹ Congress is allowed to decide if federal law should override, or preempt, state law when Congress enacts or changes a law.³⁰ Congress may add language to a law that specifically states that the federal law will preempt any state law that conflicts with the federal law. If a state law conflicts with a federal law that has that specific language, then the state must follow the federal law and the conflicting parts of the state law are invalid.³¹

Congress has the power to preempt any state laws related to time zones and daylight saving time because time zones are related to interstate commerce.³² Congress added specific language to the Uniform Time Act that expressly stated federal law preempts any state laws regarding time zones.³³ Since Congress has expressly preempted any state laws that conflict with

²³ Cal. Proposition 7 § 1 (2018).

²⁴ Cal. Proposition 7 § 1 (2018).

²⁵ *Id.*

²⁶ Cal. Proposition 7 § 2; SENATE FLOOR ANALYSIS OF AB 807, *supra* note 18.

²⁷ 15 U.S.C. § 260a(a); Cal. Proposition 7 § 2 (2018).

²⁸ 15 U.S.C. § 260a(b) (2009).

²⁹ *Id.*

³⁰ U.S. Const. art. VI, cl. 2.

³¹ *Id.*

³² U.S. Const. art. I, § 8, cl. 3; 15 U.S.C. § 261(a) (2009).

³³ 15 U.S.C. § 260a(b).

the Uniform Time Act, the parts of California’s current daylight saving time law that do not match the federal law, specifically the dates daylight saving time starts and end, are considered to be invalid because it does not match the federal law.³⁴

States may have the option to have year-round daylight saving time if the federal government changes the Uniform Time Act. The “Sunshine Protection Act of 2018” was recently introduced into the United States House of Representatives. This act would amend the Uniform Time Act to have all states who participate in daylight saving time to be on full-year daylight saving time.³⁵ Proposition 7, if approved, would have no impact on any future changes to federal law, though it would allow the Legislature to update the language of California’s daylight saving time laws to match any changes made to the Uniform Tim Act without voter approval.³⁶

B. State Constitution Issues

The California Constitution requires that separate issues are voted on separately for legislative amendments such as Proposition 7.³⁷ In order to determine that a separate vote is not required, the provisions must be “reasonably germane to a common theme, purpose or subject,” where the different parts of the proposed law are reasonably related.³⁸ It could be argued that updating the daylight saving time language to conform with current federal law and allowing the Legislature to change the time standard California follows are not reasonably related. However, it is likely that Proposition 7 would pass the “reasonably related” test because Proposition 7 focuses on daylight saving time and the federal government makes the final determination as to what time standard California must follow.

The separate vote rule also helps to avoid voter confusion and ensure that the voters are considering only one issue at a time.³⁹ Even though the two main provisions in Proposition 7 would likely be considered “reasonably germane,” the language of the proposition is confusing. The first section of Proposition 7 updates California daylight saving time language to be the same as the Uniform Time Act.⁴⁰ This is fairly straightforward and is clearly addressed in the proposition title and summary.⁴¹

The Proposition, however, also permits the Legislature to make changes, such as going to year-round daylight saving time if they receive the permission of the federal government.⁴² The title and summary make it seem like the voters would be voting for the Legislature to amend the current language to be on year-round daylight saving time.⁴³ Arguments in favor and against Proposition 7 focus on the benefits or harms to being on year-round daylight saving time, rather than the importance of conforming to federal standards or the ability of the Legislature to ask the

³⁴ 15 U.S.C. § 260a(b); Cal. Proposition 7 § 2 (2018).

³⁵ HR 5279, 2017 Cong. U.S., 115th Congress, 2nd Sess. (2018).

³⁶ Cal. Proposition 7 § 2 (2018).

³⁷ Cal. Const. art. 18, §1.

³⁸ *Californians for an Open Primary v. McPherson*, 38 Cal.4th 735, 777 (2006).

³⁹ *Id.* at 765.

⁴⁰ Cal. Proposition 7 §1 (2018).

⁴¹ NOVEMBER 2018 VOTER GUIDE at 44.

⁴² Cal. Proposition 7 § 2 (2018).

⁴³ NOVEMBER 2018 VOTER GUIDE at 44-46.

federal government for an exemption.⁴⁴ The proposition’s language, title, summary, and arguments presented may lead voters to think that they are voting for or against changes to California’s daylight saving time, however the Proposition is simply putting the ability to control daylight saving time laws in the hands of the Legislature and removing it from the people.

V. PUBLIC POLICY ISSUES

There are official arguments both for and against Proposition 7. In addition to the voter guide, the Legislature discussed this proposition to decide if it wanted to put daylight saving time on the ballot for the voters. In June 2017, sixty-eight members of the State Assembly voted in favor of putting this proposition on the ballot and six members voted against.⁴⁵ In June 2018, Twenty-six senators voted to put the proposition on the November ballot and nine voted against.⁴⁶

Most of the discussions below focus on the information given to the voters after the Proposition was placed on the ballot, but some information is from the Legislature's discussions leading to its decision to put the proposition on the ballot. The Legislature focused on the benefits and disadvantages during their legislative hearings, even though both the voters and the federal government must agree to allow California to do year-round daylight saving time before the Legislature can adopt it.

A. Proponents

The proponents of Proposition 7 focus on the potential benefits of year-round daylight saving time, including public health and energy savings.⁴⁷ The public health discussion focuses on studies that show changing clocks twice a year has a negative impact on both physical health and sleep patterns.⁴⁸ The Voter Guide only cites to “university medical studies in 2012” and “further research” in 2016.⁴⁹ Specific studies were not cited during Legislative discussions either,⁵⁰ but a basic internet search of “daylight savings health impacts” does show numerous studies discussing similar health impacts as the proponents mention.⁵¹ The proponents website⁵² cites surveys by the U.S. Department of Labor regarding increases in workplace injuries, a 2001 article in *Sleep Medicine* regarding an increase in traffic accidents, and 2014 Reuter’s news article discussing a study that showed an increase in heart attacks the Monday after Daylight Saving Time begins.⁵³

⁴⁴ *Id.* at 45-46.

⁴⁵ *Id.* at 44.

⁴⁶ *Id.*

⁴⁷ *Id.* at 46.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ SENATE FLOOR ANALYSIS OF AB 807, *supra* note 18.

⁵¹ Internet search using *Google* search engine “daylight savings health impacts 2012,” Sept. 18, 2018. (on file with the *California Initiative Review*).

⁵² Our Voice, Our Vote is AssemblyMember Lorena Gonzalez Fletcher’s Ballot Measure Committee for Proposition 7. AssemblyMember Gonzalez Fletcher is one of the official proponents of Proposition 7 and is up for reelection in November 2018 in California District 80 (San Diego). (on file with the *California Initiative Review*).

⁵³ Our Voice, Our Vote, *Vote Yes on Prop 7*, <https://yesprop7.info/> (last visited Oct. 3, 2018).

The proponents of Proposition 7 also discuss the energy savings impact from having year-round daylight saving time. The proponents state that there would be a decrease in electricity use and fuel consumption, which would lead to saving money.⁵⁴ However, in the legislative discussions, there is “no clear evidence that [daylight saving time] would result in energy savings.” Additionally, the legislative discussion cites to a study that was done in Indiana showing that an increase in electricity and gas usage during daylight saving time, but states that the actual usage and cost may vary from region to region.⁵⁵ It is unclear how the proponents calculated the estimated energy and gas savings, but it is possible that Californians could overall reduce electricity and gas usage, though that may vary throughout the diverse regions of California.

The proponents note that daylight saving time is an outdated practice and California could lead the way for other states by halting the practice.⁵⁶ While this may be true, California would still need approval from the federal government to move to year-round daylight saving time, which the federal government may deny.

There are other benefits to approving Proposition 7 that the official proponents have not addressed in their arguments. First, there would be no potential confusion between the language differences in the Uniform Time Act and California’s Daylight Saving Time Act. Even though federal law may override the state law, it is best practice for the language of the state law to be the same as the federal law to avoid potential confusion when creating or changing laws in the future.

Second, there is a strong argument for giving the Legislature the power to change the daylight saving time laws without needing voter approval. The voters are not able to make any changes to California’s daylight saving laws without the federal government’s approval, similar to the state Legislature.⁵⁷ This was not the case when the voter’s approved the Daylight Saving Time Act because each state had the ability to adopt their own daylight saving laws prior to the passage of the Uniform Time Act in 1966.⁵⁸ Since the voters are not able to make changes to the daylight saving time laws without the state legislature petitioning the federal government, Proposition 7 removes the voter approval requirement that is necessary to change any laws that are enacted by voter initiative.⁵⁹

While the proponents focus on the potential benefits of going to year-round daylight saving time, this focus makes it unclear to the voters that a “yes” vote does not mean that California will move to year-round daylight saving time if Proposition 7 passes. It is only stated in the official title and summary that any changes to daylight saving time would be done by the Legislature in the future, rather than with the proposition, as the proponents arguments seem to

⁵⁴ NOVEMBER 2018 VOTER GUIDE at 46.

⁵⁵ SENATE FLOOR ANALYSIS OF AB 807, *supra* note 18.

⁵⁶ NOVEMBER 2018 VOTER GUIDE at 46; SENATE FLOOR ANALYSIS OF AB 807, *supra* note 18.

⁵⁷ 15 U.S.C. § 260a(a).

⁵⁸ The Uniform Time Act of 1966 established that the federal government would control both time zones and daylight saving time. Even though states still have the ability to choose to participate in daylight saving time or not, the federal government must approve any changes. Any state laws that were in place prior to 1966 were still subject to the Uniform Time Act, effectively taking away the power from the voters to make changes to daylight saving time laws.

⁵⁹ Cal. Const. art. 2, § 8.

imply.⁶⁰ The proponents focus their argument on the benefits of year-round daylight saving time, when that is not the main issue that Proposition 7 addresses. However, there are additional benefits, such as allowing the Legislature to amend the state laws to be consistent with federal laws without involving the voters, since the voters no longer have the power to change daylight saving time laws because of the Uniform Time Act.

B. Opponents

Opponents of Proposition 7 make a number of arguments as to why it is unnecessary to pass an initiative modifying California's existing daylight saving time law. Opponents point out that daylight saving time does not create more hours of daylight, it just changes when those hours occur.⁶¹ Under the current law, California switches to Pacific Daylight Time in the summer so it is still light when most people return home from work.⁶² In the winter, California switches to Pacific Standard Time so that it is light in the morning.⁶³ If Proposition 7 passes, the Legislature could vote to ask the federal government to allow California to be on Pacific Daylight Time year-round.⁶⁴ Adoption of year-round daylight saving time would mean that sunrise in late December would occur at 7:55 a.m. instead of 6:55 a.m.⁶⁵ This means that more people will leave for work or take their children to school while it is still dark.⁶⁶

Since more people will be leaving their homes while it is still dark, an increased risk of accidents is another possible impact of changing the existing law. According to Severine Borenstein, a professor at the UC Berkeley Haas School of Business, "Permanent [daylight saving time] would likely lead to more pedestrian accidents on winter mornings as more adults and children venture out in darkness."⁶⁷

Another potential problem with year-round daylight saving time is that California's time zone would be out of sync with other many other states.⁶⁸ California would no longer consistently share the same time as its Pacific Coast neighbors.⁶⁹ Additionally, in summer, there would be a three-hour difference between California and New York, but would only be a two hour difference in the winter.⁷⁰ Adjustments to schedules and contracts would need to happen twice a year for interactions such as financial dealings with many other states.⁷¹ Opponents argue that the convenience of not changing clocks here twice a year will not be worth the confusion in interactions with other states.⁷²

⁶⁰ NOVEMBER 2018 VOTER GUIDE at 44.

⁶¹ NOVEMBER 2018 VOTER GUIDE at 47.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ George Skelton, *Year-round daylight saving time? More dark mornings is just one downside*, LOS ANGELES TIMES, Jul. 5, 2018, <http://www.latimes.com/politics/la-pol-sac-skelton-daylight-saving-time-20180705-story.html>.

⁶⁸ NOVEMBER 2018 VOTER GUIDE at 47.

⁶⁹ *Id.*

⁷⁰ Skelton, *supra* note 67.

⁷¹ *Id.*

⁷² NOVEMBER 2018 VOTER GUIDE at 47.

Finally, opponents point out that year-round daylight saving time has been tried before and proved to be an unpopular policy.⁷³ During the 1973 energy crisis, President Richard Nixon issued an order establishing daylight saving time as Standard Time nationwide.⁷⁴ The change was supposed to be in effect for 16 months; however after just 10 months the policy was stopped because people did not like how late sunrise was on winter mornings.⁷⁵

A "no" vote on Proposition 7 would leave the existing law unchanged. A "no" vote on Proposition 7 also prevents the Legislature from having the power to change California's daylight saving time laws to year-round daylight saving without voter approval.

VI. CONCLUSION

Proposition 7 would allow the Legislature the ability to change daylight saving time to match current federal law and make changes to it in the future. Proposition 7 would repeal the Daylight Saving Time Act and remove any voter requirements for changes in the future. The Legislature would also be allowed to vote and potentially petition Congress for permission to have daylight saving time year-round. The proponents argue that having daylight saving time year-round will benefit public health and energy savings. However, the opponents argue that changing the current law is unnecessary and would lead to inconvenient consequences such as dark winter mornings and being out of sync with the majority of other states. It is unclear if California would be able to have year-round daylight saving time if the proposition is approved by voters because of federal law requirements. It would, however, allow the legislature to change daylight saving time laws without voter approval.

⁷³ *Id.*

⁷⁴ Executive Order No. 11751, 38 Fed. Reg. 34725 (Dec. 15, 1973).

⁷⁵ NOVEMBER 2018 VOTER GUIDE at 47.