

BOARD MEETING DATE: August 7, 2020

AGENDA NO. 27

PROPOSAL: Discuss and Consider Action on California Proposition 16, Repeal of Proposition 209, Appearing on the November 3, 2020 General Election Ballot

SYNOPSIS: South Coast AQMD seeks to improve intra-agency inclusiveness and racial equity through the re-evaluation of current policies and adoption of new policies. This item is to discuss and take action on Proposition 16, a constitutional amendment to repeal Proposition 209 (1996), which prohibited the state from discriminating against or granting preferential treatment to persons on the basis of race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting.

COMMITTEE: No Committee Review

RECOMMENDED ACTION:

Support Proposition 16 (2020) to repeal Section 31 of Article I of the California Constitution.

Wayne Natri
Executive Officer

DJA:DPG

Background

In 1996, California voters passed Proposition 209 which added Section 31 of Article I of the California Constitution. The measure eliminated state and related-government agency affirmative action programs used to increase hiring and promotion opportunities for state and local government jobs where race, sex, color, ethnicity, or national origin were preferential factors in hiring, promotion, training or recruitment. The measure also eliminated programs giving preference to women-owned or minority-owned companies

on public contracts that do not receive money under federal programs requiring affirmative action.

Section 31 of Article I of the California Constitution applies to all subdivisions of the state, including special districts. The measure includes exemptions to the ban on preferential treatment so that entities, such as South Coast AQMD, can establish or preserve eligibility for federal funding programs. Overall, Proposition 209 impedes South Coast AQMD's efforts to promote diversity and inclusion.

Proposition 16 (2020) calls for the repeal of Section 31 of Article I of the California Constitution. The measure, to appear on the November 3, 2020 ballot, seeks to make California law consistent with federal law governing affirmative action through various statutes and the equal protection clause of the 14th Amendment of the U.S. Constitution.

Proposal

South Coast AQMD is committed to becoming one of the most inclusive agencies in the state through the evaluation and adoption of policies that seek to increase diversity and inclusivity. Proposition 16 is consistent with South Coast AQMD's goal of increasing diversity by allowing agencies to create employment programs that explicitly take the race, sex, color, ethnicity or national origin of an applicant into account, to the extent consistent with the federal Equal Protection Clause

Resource Impacts

There are no known impacts on South Coast AQMD resources.