The Voters Prohibited the Legislature from Enacting Hostile Amendments to Prop 103, and the Courts Have Invalidated the Law Each Time the Legislature Has Done So

Article 2, Section 10, subd. (c) of the California Constitution limits the Legislature's power to repeal or amend a voter approved initiative to the terms set forth by voters in the initiative:

> The Legislature may amend or 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. (Emphasis added.)

Pursuant to the California Constitution, Section 8(b) of Proposition 103 provides: "The provisions of this act shall not be amended by the Legislature except to further its purposes ...."

As the California Supreme Court explained in its landmark ruling interpreting this constitutional protection:

> Under article II, section 10, subdivision (c), the voters have the power to decide whether or not the Legislature can amend or repeal initiative statutes. This power is absolute and includes the power to enable legislative amendment *subject to conditions attached by the voters.* (*Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, 1251 [emphasis in original].)

"The constitutional limitation on the Legislature's power to amend initiative statutes is designed to "'protect the people's initiative powers by precluding the Legislature from undoing what the people have done, without the electorate's consent.'" (*Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473.

Each of the three legislative enactments invalidated by California courts since 1988 contained core provisions similar to those in AB 2167:

In *Amwest Surety Ins. Co. v. Wilson* (1995) 11 Cal.4th 1243, the Supreme Court invalidated legislation to exempt surety insurance from Proposition 103's rate review requirements.

In *Proposition 103 Enforcement Project v. Quackenbush* (1998) 64 Cal.App.4th 1473, the legislation deprived the Insurance Commissioner of the authority to require insurance companies to pay the full amount of the refunds mandated by Proposition 103.

In *The Foundation for Taxpayer and Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1354, the legislation usurped the authority that the voters invested in the Commissioner to regulate insurance companies.

The latter decision concerned legislation identical to the AB 2167/SB 292 package. The Court in that case invalidated legislation that intruded upon the authority to regulate rates that the voters entrusted *solely* to the Insurance Commissioner:

> Under Proposition 103… it is the Insurance Commissioner rather than the Legislature that is vested with ratemaking authority subject to the appropriate ratemaking process. (*Id.* at 1372.)