

AMENDED IN SENATE MAY 6, 2003
AMENDED IN SENATE FEBRUARY 7, 2003

Senate Constitutional Amendment

No. 1

Introduced by Senators Burton and McPherson
(Coauthor: Senator Bowen)

December 2, 2002

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 3 of Article I thereof, relating to access to government information.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, as amended, Burton. Access to government information.

The California Constitution provides that the people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. Various provisions of existing law, including, among others, the California Public Records Act, the Legislative Open Records Act, the Bagley-Keene Open Meeting Act, and the Ralph M. Brown Act, provide, with some exceptions, for public access to government records and meetings of government bodies.

This measure would provide that the people have the right of access to information concerning the conduct of the people's business. It would provide that the meetings of public bodies and writings of public officials and agencies shall be open to public scrutiny ~~and that the right of access shall be effectuated whenever it does not harm any investigation by a law enforcement agency or an overriding public or private interest.~~

This measure also would provide that any statute, court rule, or other authority, including those in effect on the effective date of this measure, shall be broadly construed if it effectuates the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this measure that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This measure also would provide that nothing in its provisions supersedes or modifies the right to privacy guaranteed by the California Constitution, or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, *including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.*

It would provide that its provisions do not repeal or nullify, expressly or by implication, any statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this measure, including any statute protecting the confidentiality of law enforcement and prosecution records.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
 2 Legislature of the State of California at its 2003–04 Regular
 3 Session commencing on the second day of December 2002,
 4 two-thirds of the membership of each house concurring, hereby
 5 proposes to the people of the State of California that the
 6 Constitution of the State be amended by amending Section 3 of
 7 Article I thereof, to read:

8 SEC. 3. (a) The people have the right to instruct their
 9 representatives, petition government for redress of grievances,
 10 and assemble freely to consult for the common good.

11 (b) (1) The people have the right of access to information
 12 concerning the conduct of the people's business, and, therefore,
 13 the meetings of public bodies and the writings of public officials
 14 and agencies shall be open to public scrutiny. ~~This right of access~~
 15 ~~shall be effectuated whenever it does not harm any investigation~~
 16 ~~by a law enforcement agency or an overriding public or private~~
 17 ~~interest.~~



1 (2) A statute, court rule, or other authority, including those in
2 effect on the effective date of this subdivision, shall be broadly
3 construed if it furthers the people’s right of access, and narrowly
4 construed if it limits the right of access. A statute, court rule, or
5 other authority adopted after the effective date of this subdivision
6 that limits the right of access shall be adopted with findings
7 demonstrating the interest protected by the limitation and the need
8 for protecting that interest.

9 (3) Nothing in this subdivision supersedes or modifies the right
10 of privacy guaranteed by Section 1 or affects the construction of
11 any statute, court rule, or other authority to the extent that it
12 protects that right to privacy, *including any statutory procedures*
13 *governing discovery or disclosure of information concerning the*
14 *official performance or professional qualifications of a peace*
15 *officer.*

16 (4) *This subdivision does not repeal or nullify, expressly or by*
17 *implication, any statutory exception to the right of access to public*
18 *records or meetings of public bodies that is in effect on the effective*
19 *date of this subdivision, including, but not limited to, any statute*
20 *protecting the confidentiality of law enforcement and prosecution*
21 *records.*

