

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 27, 2003

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.

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 nothing in its provisions supersedes or modifies any provision of the California Constitution, including the guarantee of due process and equal protection.

It would provide that its provisions do not repeal or nullify, expressly or by implication, any constitutional or 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.

It would provide that its provisions do not repeal, nullify, supersede, or modify protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature and its employees, committees, and caucuses provided by certain provisions of the California Constitution, state law, or legislative rules adopted in furtherance of those provisions; nor do they affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature and its employees, committees, and caucuses.

Vote: $\frac{2}{3}$. 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



1 Constitution of the State be amended by amending Section 3 of
2 Article I thereof, to read:

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

6 (b) (1) The people have the right of access to information
7 concerning the conduct of the people’s business, and, therefore,
8 the meetings of public bodies and the writings of public officials
9 and agencies shall be open to public scrutiny.

10 (2) A statute, court rule, or other authority, including those in
11 effect on the effective date of this subdivision, shall be broadly
12 construed if it furthers the people’s right of access, and narrowly
13 construed if it limits the right of access. A statute, court rule, or
14 other authority adopted after the effective date of this subdivision
15 that limits the right of access shall be adopted with findings
16 demonstrating the interest protected by the limitation and the need
17 for protecting that interest.

18 (3) Nothing in this subdivision supersedes or modifies the right
19 of privacy guaranteed by Section 1 or affects the construction of
20 any statute, court rule, or other authority to the extent that it
21 protects that right to privacy, including any statutory procedures
22 governing discovery or disclosure of information concerning the
23 official performance or professional qualifications of a peace
24 officer.

25 (4) Nothing in this subdivision supersedes or modifies any
26 provision of this Constitution, including the guarantee that a
27 person may not be deprived of life, liberty, or property without due
28 process of law, or denied equal protection of the laws, as provided
29 in Section 7.

30 (5) This subdivision does not repeal or nullify, expressly or by
31 implication, any constitutional or statutory exception to the right
32 of access to public records or meetings of public bodies that is in
33 effect on the effective date of this subdivision, including, but not
34 limited to, any statute protecting the confidentiality of law
35 enforcement and prosecution records.

36 (6) *Nothing in this subdivision repeals, nullifies, supersedes, or*
37 *modifies protections for the confidentiality of proceedings and*
38 *records of the Legislature, the Members of the Legislature, and its*
39 *employees, committees, and caucuses provided by Section 7 of*
40 *Article IV, state law, or legislative rules adopted in furtherance of*



- 1 *those provisions; nor does it affect the scope of permitted discovery*
- 2 *in judicial or administrative proceedings regarding deliberations*
- 3 *of the Legislature, the Members of the Legislature, and its*
- 4 *employees, committees, and caucuses.*

