

**ASSEMBLY BILL**

**No. 4**

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**Introduced by Assembly Member Blakeslee**

December 1, 2008

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An act relating to the Constitutional Convention.

LEGISLATIVE COUNSEL'S DIGEST

AB 4, as introduced, Blakeslee. Constitutional convention: delegates.

The California Constitution authorizes the Legislature, by rollcall vote entered in the journal,  $\frac{2}{3}$  of the membership of each house concurring, to submit at a general election the question whether to call a convention to revise the Constitution. If a majority vote yes on that question, the Legislature is required, within 6 months, to provide for the convention. Delegates to the convention are required to be voters elected from districts as nearly equal in population as may be practicable.

This bill would provide for the selection of 56 delegates to the Constitutional Convention, with 14 delegates selected from each of the State Board of Equalization districts, as specified. The bill would prohibit a delegate to the Convention from holding a specified office or position, including an elective or appointed federal, state, county, or city office, for 4 years following the date of his or her appointment as a delegate to the Convention. The term of each delegate would expire at the time the Convention submits its proposal to the Secretary of State to be voted on at the next statewide election.

The bill would further prohibit a voter from being eligible to serve as a delegate to the Convention if the voter or his or her immediate family member held a specified office or position, including an elective or appointed federal, state, county, or city office, for the 10 years preceding the date of his or her application.

The bill would require the Convention to convene in the Assembly Chambers at the Capitol in the City of Sacramento and would specify the rules for the Convention. The delegates to the Convention would be paid \$300 for each day he or she engaged in Convention business. The bill would further provide for the removal of a delegate by the Governor with the concurrence of  $\frac{3}{4}$  of the Members of the Senate after the delegate has been served with written notice and provided an opportunity for a response. Any vacancy of a delegate shall be filled within 30 days from the date of the vacancy by an applicant for the Convention who is of the same voter registration category and the same State Board of Equalization district as the vacating delegate.

The bill would provide that no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of the employee's scheduled attendance at any meeting of the Constitutional Convention.

The bill would become operative only if ACR \_\_\_\_ is approved by the voters at a statewide general election.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) Delegates to the Constitutional Convention
- 2 shall be elected as follows:
- 3 (1) There shall be a total of 56 delegates, with 14 delegates
- 4 selected from each of the four State Board of Equalization districts.
- 5 (2) Each delegate shall be a voter in the district in which he or
- 6 she resides and each delegate shall have had his or her residence
- 7 in that district for 10 or more years immediately preceding the date
- 8 of his or her appointment.
- 9 (3) Each delegate shall be continuously registered in California
- 10 with the same political party or unaffiliated with a political party
- 11 and may not have changed political party affiliation for five or
- 12 more years immediately preceding the date of his or her
- 13 appointment. Each delegate shall have voted in two of the last
- 14 three statewide general elections immediately preceding his or her
- 15 application for appointment.
- 16 (4) Each delegate shall submit an application for appointment
- 17 to the State Auditor and be subject to the application process
- 18 described in Section 2 of this act.

(5) Of the 14 delegates selected from each district, five shall be registered with the largest qualified political party in California based on registration, five shall be registered with the second largest qualified political party in California based on registration, and four may not be registered with either of the two largest qualified political parties in California based on registration.

(b) A voter selected as a delegate to the Constitutional Convention shall be subject to both of the following:

(1) He or she shall be ineligible for a period of four years, beginning from the date of his or her appointment, to do any of the following:

(A) Hold elective public office at the federal, state, county, or city level in this state.

(B) Hold an appointed federal, state, or local public office.

(C) Serve as paid staff for the Legislature or any individual legislator.

(D) Register as a federal, state, or local lobbyist in this state.

(2) The term of each delegate shall expire when the Constitutional Convention submits to the Secretary of State its proposal to be voted on at the next statewide election.

SEC. 2. (a) For purposes of this section, the following definitions shall apply:

(1) “Day” means a calendar day, except that if the final day of a period within which an act is to be performed is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(2) “Immediate family” means one with whom the person has a bona fide relationship established through blood or legal relation, including spouses, parents, children, siblings, and in-laws.

(3) “Panel” means the Constitutional Convention Applicant Review Panel.

(4) “Qualified independent auditor” means an auditor who is currently licensed by the California Board of Accountancy and has been a practicing independent auditor for at least 10 years prior to appointment to the Constitutional Convention Applicant Review Panel.

(b) (1) Within 90 days of the statewide election in which voters call a Constitutional Convention, the State Auditor shall initiate and open an application process, open to all registered California

1 voters in a manner that promotes a diverse and qualified applicant  
2 pool.

3 (2) The State Auditor shall remove from the applicant pool  
4 individuals with conflicts of interest, including all of the following:

5 (A) Within the 10 years immediately preceding the date of  
6 application, the applicant or a member of his or her immediate  
7 family who has done any of the following:

8 (i) Been appointed to, elected to, or has been a candidate for  
9 federal or state office.

10 (ii) Served as an officer, employee, or paid consultant of a  
11 political party or of the campaign committee of a candidate for  
12 elective federal or state office.

13 (iii) Served as an elected or appointed member of a political  
14 party central committee.

15 (iv) Been a registered federal, state, or local lobbyist.

16 (v) Served as paid staff for a member of Congress, the  
17 Legislature, or the State Board of Equalization.

18 (vi) Contributed two thousand dollars (\$2,000) or more to any  
19 congressional, state, or local candidate for elective public office  
20 in any year, which shall be adjusted every 10 years by the  
21 cumulative change in the California Consumer Price Index, or its  
22 successor.

23 (B) Staff and consultants to, persons under a contract with, and  
24 any person with an immediate family relationship with the  
25 Governor, a Member of the Legislature, a member of Congress,  
26 or a member of the State Board of Equalization.

27 (3) All applications to be a delegate for the Constitutional  
28 Convention shall be submitted to the State Auditor.

29 (c) The State Auditor shall establish an Applicant Review Panel,  
30 consisting of three qualified independent auditors, to screen  
31 applicants. The State Auditor shall randomly draw the names of  
32 three qualified independent auditors from a pool consisting of all  
33 auditors employed by the state and licensed by the California Board  
34 of Accountancy at the time of the drawing. The State Auditor shall  
35 draw until the names of three auditors have been drawn, including  
36 one who is registered with the largest qualified political party in  
37 California based on party registration, one who is registered with  
38 the second largest qualified political party in California based on  
39 party registration, and one who is not registered with either of the  
40 two largest qualified political parties in California. After the

1 drawing, the State Auditor shall notify the three qualified  
2 independent auditors whose names have been drawn that they have  
3 been selected to serve on the panel. If any of the three qualified  
4 independent auditors decline to serve on the panel, the State  
5 Auditor shall resume the random drawing until three qualified  
6 independent auditors who meet the requirements of this subdivision  
7 have agreed to serve on the panel. A member of the panel may not  
8 be a person described in paragraph (2) of subdivision (b).

9 (d) After removing the names of applicants described in  
10 paragraph (2) of subdivision (b), the State Auditor shall publicize  
11 the names in the applicant pool and provide copies of their  
12 applications to the Applicant Review Panel.

13 (e) No later than 30 days from the date described in paragraph  
14 (1) of subdivision (b), the panel shall do all of the following:

15 (1) Select 240 of the most qualified applicants, with 60  
16 applicants selected from each of the four State Board of  
17 Equalization districts. For the 60 applicants from each State Board  
18 of Equalization district, 20 shall be registered with the largest  
19 qualified political party in California based on registration, 20 shall  
20 be registered with the second largest qualified political party in  
21 California based on registration, and 20 who are not registered  
22 with either of the two largest qualified political parties in California  
23 based on registration.

24 (2) Create a pool of applicants for each State Board of  
25 Equalization district on the basis of relevant analytical skills and  
26 the ability to be impartial.

27 (3) The panel shall present its list of recommended applicants  
28 to the Secretary of the Senate and the Chief Clerk of the Assembly.

29 (f) The members of the panel shall not communicate with any  
30 State Board of Equalization member, Senator, Assembly Member,  
31 member of Congress, or any of their respective representatives  
32 about any matter related to the nomination process or applicants  
33 prior to the presentation by the panel of the pool of recommended  
34 applicants to the Secretary of the Senate and the Chief Clerk of  
35 the Assembly.

36 (g) No later than 20 days from the date the panel presents its  
37 list of recommended applicants to the Secretary of the Senate and  
38 the Chief Clerk of the Assembly, the President pro Tempore of  
39 the Senate, the Minority Floor Leader of the Senate, the Speaker  
40 of the Assembly, and the Minority Floor Leader of the Assembly

1 may each strike the names of up to two applicants from each pool  
2 of 20 applicants described in paragraph (1) of subdivision (e).  
3 After each legislative leader has exercised his or her strikes, the  
4 Secretary of the Senate and the Chief Clerk of the Assembly shall  
5 jointly present the pool of remaining names to the State Auditor.

6 (h) (1) No later than 5 days from the date the Secretary of the  
7 Senate and the Chief Clerk of the Assembly jointly present the  
8 pool of remaining names to the State Auditor, the State Auditor  
9 shall randomly draw eight names from that pool of remaining  
10 applicants for each State Board of Equalization district, for a total  
11 of 32 applicants. Of the eight names drawn from the pool of  
12 remaining applicants for each district, three applicants shall be  
13 registered with the largest qualified political party in California  
14 based on registration, three applicants shall be registered with the  
15 second largest qualified political party in California based on  
16 registration, and two applicant shall not be registered with either  
17 of the two largest qualified political parties in California based on  
18 registration.

19 (2) These 32 applicants shall be named as delegates to the  
20 Constitutional Convention.

21 (i) No later than 20 days from the date the State Auditor  
22 randomly draws the names of the 32 individuals named as delegates  
23 to the Constitutional Convention, those delegates shall review the  
24 remaining names of applicants described in paragraph (1) of  
25 subdivision (h) and name, by majority vote, six additional delegates  
26 from each State Board of Equalization district for a total of 24  
27 delegates. Of these six delegates, two delegates shall be registered  
28 with the largest qualified political party in California based on  
29 registration, two delegates shall be registered with the second  
30 largest qualified political party in California based on registration,  
31 and two delegates shall not be registered with either of the two  
32 largest qualified political parties in California based on registration.  
33 The selection of these additional delegates shall be based on  
34 relevant analytical skills and ability to be impartial.

35 (j) The delegates shall convene the Constitutional Convention  
36 no later than 6 months from the date described in paragraph (1) of  
37 subdivision (b).

38 SEC. 3. (a) The delegates selected pursuant to Section 2 of  
39 this act shall meet in Convention in the Assembly Chambers in  
40 the State Capitol Building in the City of Sacramento. After the

1 Convention meets and is organized, the Convention shall have the  
2 power to adjourn and to hold its meetings, subject to the approval  
3 of the Committee on Rules for each house, in the respective  
4 committee rooms of the Capitol.

5 (b) (1) The Governor shall attend the opening of the Convention  
6 and administer the constitutional oath of office to the delegates  
7 and shall preside at all meetings of the Convention until a president  
8 and vice president of the Convention have been selected. The  
9 Governor may not cast a vote on any matter presented to  
10 Convention.

11 (2) The Convention shall select a president and a vice president  
12 of the Convention. The president and vice president shall not be  
13 registered with the same political party or both shall not be  
14 registered as declined to state voters.

15 (3) All votes of the Convention shall be by majority vote,  
16 regardless of which State Board of Equalization district a delegate  
17 resides.

18 (c) The Convention may adopt its own rules if those rules are  
19 consistent with this act.

20 (d) The Convention shall comply with the Bagley-Keene Open  
21 Meeting Act (Article 9 (commencing with Section 11120) of  
22 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
23 Code). The Convention shall provide not less than 14 days' public  
24 notice for each meeting.

25 (e) The records of the Convention pertaining to amendments of  
26 and revisions to the California Constitution are public records and  
27 shall be posted in a manner that ensures immediate and widespread  
28 public access.

29 (f) The Sergeant-at-Arms of the Assembly and the  
30 Sergeant-at-Arms of the Senate shall maintain order and assist the  
31 Convention.

32 (g) Notwithstanding any other provision of law, the Convention  
33 has the authority to incur costs to be paid by the Treasurer upon a  
34 warrant of the Controller. The Convention shall not incur any costs,  
35 in the aggregate, that equal or exceed three million dollars  
36 (\$3,000,000) without the prior written approval of the Director of  
37 Finance. Any expenditure over this limit by the Convention shall  
38 be reasonable and consistent with the purpose of the Constitutional  
39 Convention, as determined by the Director of Finance.

1 (h) The Convention shall keep a journal of its proceedings to  
2 be filed, at the final adjournment of the Convention, with the  
3 Secretary of State.

4 (i) Notwithstanding any other provision of law, a delegate to  
5 the Convention is not subject to civil process during the session  
6 of the Convention or for five days before and after the session of  
7 the Convention.

8 (j) Delegates to the Convention shall not be questioned in any  
9 other place for any speech or debate in the Convention.

10 (k) Each delegate shall be paid three hundred dollars (\$300) for  
11 each day the delegate is engaged in Convention business.

12 (l) All printing for the Convention shall be done by the State  
13 Printing Office.

14 SEC. 4. (a) In the event of substantial neglect of duty, gross  
15 misconduct in office, or the inability to discharge the duties of  
16 office, a delegate to the Convention may be removed by the  
17 Governor with the concurrence of three-fourths of the Members  
18 of the Senate after the delegate has been served with written notice  
19 and provided an opportunity for a response. A finding of substantial  
20 neglect of duty or gross misconduct in office may result in referring  
21 the matter to the Attorney General for criminal prosecution or to  
22 the appropriate administrative agency for investigation.

23 (b) Any vacancy, whether created by the removal, resignation,  
24 or absence of a delegate, shall be filled within 30 days after the  
25 vacancy occurs from the pool of applicants described in subdivision  
26 (i) of Section 2 of this act and be of the same voter registration  
27 category and in the same State Board of Equalization district as  
28 the vacating delegate.

29 SEC. 5. Notwithstanding any other provision of law, no  
30 employer shall discharge, threaten to discharge, intimidate, coerce,  
31 or retaliate against any employee by reason of the employee's  
32 scheduled attendance at any meeting of the Constitutional  
33 Convention.

34 SEC. 6. This bill shall become operative only upon the approval  
35 of Assembly Concurrent Resolution \_\_\_\_ of the 2009–10 Regular  
36 Session by the voters at a statewide general election.