

Assembly Constitutional Amendment

No. 8

Introduced by Assembly Member Jeffries

January 12, 2009

Assembly Constitutional Amendment No. 8—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, and by amending Section 7 of, and adding Section 7.3 to, Article IV thereof, relating to meetings of the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as introduced, Jeffries. Meetings of the Legislature.

Existing provisions of the California Constitution require meetings of each house and committee of the Legislature to be open to the public, except that closed meetings may be held to consider specified matters, including employment and personnel, security, advice from counsel, and caucus meetings.

This measure would further require a house or committee of the Legislature, at least 72 hours before a regularly scheduled meeting, to post an agenda containing a brief general description of each item to be considered, including items to be considered in closed session. The measure would generally prohibit consideration of any matter not included in the agenda. The measure would require public disclosure of a writing provided to members of a house or a committee in connection with the consideration of agenda items unless the writing is exempt from the mandatory disclosure requirements imposed by statute. The measure would require each agenda for a regular committee meeting to provide an opportunity for members of the public to directly address the committee on an item of interest to the public, before or

during the committee's consideration of the item, that is within the subject matter jurisdiction of the committee. The measure would provide for the calling of a special or emergency meeting of the house or a committee upon specified notice to its members and the media.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2009–10 Regular
3 Session commencing on the first day of December 2008, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California that the Constitution of the
6 State be amended as follows:

7 First—That Section 3 of Article I thereof is amended to read:

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

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

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

30 (4) Nothing in this subdivision supersedes or modifies any
31 provision of this Constitution, including the guarantees that a
32 person may not be deprived of life, liberty, or property without

1 due process of law, or denied equal protection of the laws, as
2 provided in Section 7.

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

9 (6) Nothing in this subdivision repeals, nullifies, supersedes, or
10 modifies protections for the confidentiality of proceedings and
11 records of the Legislature, the Members of the Legislature, and its
12 employees, committees, and caucuses provided by ~~Section 7~~
13 ~~Sections 7 and 7.3~~ of Article IV, state law, or legislative rules
14 adopted in furtherance of those provisions; nor does it affect the
15 scope of permitted discovery in judicial or administrative
16 proceedings regarding deliberations of the Legislature, the
17 Members of the Legislature, and its employees, committees, and
18 caucuses.

19 Second—That Section 7 of Article IV thereof is amended to
20 read:

21 SEC. 7. (a) Each house shall choose its officers and adopt
22 rules for its proceedings. A majority of the membership constitutes
23 a quorum, but a smaller number may recess from day to day and
24 compel the attendance of absent ~~members~~ *Members*.

25 (b) Each house shall keep and publish a journal of its
26 proceedings. The rollcall vote of the ~~members~~ *Members* on a
27 question shall be taken and entered in the journal at the request of
28 ~~3 members~~ *three Members* present.

29 ~~(e) (1) The proceedings of each house and the committees~~
30 ~~thereof shall be open and public. However, closed sessions may~~
31 ~~be held solely for any of the following purposes:~~

32 ~~(A) To consider the appointment, employment, evaluation of~~
33 ~~performance, or dismissal of a public officer or employee, to~~
34 ~~consider or hear complaints or charges brought against a Member~~
35 ~~of the Legislature or other public officer or employee, or to~~
36 ~~establish the classification or compensation of an employee of the~~
37 ~~Legislature.~~

38 ~~(B) To consider matters affecting the safety and security of~~
39 ~~Members of the Legislature or its employees or the safety and~~
40 ~~security of any buildings and grounds used by the Legislature.~~

1 ~~(C) To confer with, or receive advice from, its legal counsel~~
2 ~~regarding pending or reasonably anticipated, or whether to initiate,~~
3 ~~litigation when discussion in open session would not protect the~~
4 ~~interests of the house or committee regarding the litigation.~~

5 ~~(2) A caucus of the Members of the Senate, the Members of the~~
6 ~~Assembly, or the Members of both houses, which is composed of~~
7 ~~the members of the same political party, may meet in closed~~
8 ~~session.~~

9 ~~(3) The Legislature shall implement this subdivision by~~
10 ~~concurrent resolution adopted by rolleall vote entered in the journal,~~
11 ~~two-thirds of the membership of each house concurring, or by~~
12 ~~statute, and shall prescribe that, when a closed session is held~~
13 ~~pursuant to paragraph (1), reasonable notice of the closed session~~
14 ~~and the purpose of the closed session shall be provided to the~~
15 ~~public. If there is a conflict between a concurrent resolution and~~
16 ~~statute, the last adopted or enacted shall prevail.~~

17 ~~(d)~~

18 ~~(c) Neither house without the consent of the other may recess~~
19 ~~for more than 10 days or to any other place.~~

20 Third—That Section 7.3 is added to Article IV thereof, to read:

21 SEC. 7.3. (a) (1) The proceedings of each house and the
22 committees thereof shall be open and public. However, closed
23 sessions may be held solely for any of the following purposes:

24 (A) To consider the appointment, employment, evaluation of
25 performance, or dismissal of a public officer or employee, to
26 consider or hear complaints or charges brought against a Member
27 of the Legislature or other public officer or employee, or to
28 establish the classification or compensation of an employee of the
29 Legislature.

30 (B) To consider matters affecting the safety and security of
31 Members of the Legislature or its employees or the safety and
32 security of any buildings and grounds used by the Legislature.

33 (C) To confer with, or receive advice from, its legal counsel
34 regarding pending or reasonably anticipated, or whether to initiate,
35 litigation when discussion in open session would not protect the
36 interests of the house or committee regarding the litigation.

37 (2) A caucus of the Members of the Senate, the Members of the
38 Assembly, or the Members of both houses, which is composed of
39 the members of the same political party, may meet in closed
40 session.

1 (b) (1) At least 72 hours before a regularly scheduled meeting
2 of either house of the Legislature, or of a committee of either house,
3 the house or committee, as applicable, shall post an agenda
4 containing a brief general description of each item to be considered,
5 including items to be considered in closed session. A brief general
6 description of an item to be considered generally need not exceed
7 20 words, exclusive of the title of a bill.

8 (2) The agenda shall specify the time and location of the
9 regularly scheduled meeting and shall be posted in a location that
10 is freely accessible to the public and, if so requested, made
11 available in appropriate alternative formats accessible to persons
12 with a disability.

13 (c) A special meeting of a house or of a committee may be
14 called, as applicable, by the presiding officer or chair, or by a
15 majority of the members of the house or committee, by delivering
16 written notice to each member of the house or committee and to
17 each newspaper of general circulation and television or radio station
18 requesting notification. The notice must be delivered at least 24
19 hours prior to the scheduled special meeting and must specify the
20 time, place, and items to be considered at the special meeting. A
21 member may waive his or her right to receive written notice of a
22 special meeting by filing a written waiver with, as applicable, the
23 clerk of the house or the secretary of the committee. The written
24 notice may also be dispensed with for any member actually present
25 when the special meeting is convened.

26 (d) (1) An emergency meeting of a house or of a committee
27 may be called only by the presiding officer or chair, or by a
28 majority of the members of the house or committee, but only if an
29 emergency has been declared by the Governor and the declaration
30 is confirmed in a resolution adopted by the Legislature, by rollcall
31 vote entered in the journal, two thirds of the membership
32 concurring. An emergency meeting shall not be called sooner than
33 one hour after providing telephone notice to each member of the
34 house or committee and to each newspaper of general circulation
35 and television or radio station requesting notification.

36 (2) For purposes of this subdivision, “emergency” means any
37 of the following:

38 (A) A work stoppage, crippling activity, or activity that severely
39 impairs public health or safety.

1 (B) A crippling disaster, mass destruction, terrorist act, or
2 threatened terrorist activity that poses an immediate and significant
3 peril to the public health or safety.

4 (C) The existence of conditions of disaster or extreme peril to
5 the safety of persons and property within the State, or parts thereof,
6 caused by conditions such as attack or probable or imminent attack
7 by an enemy of the United States, fire, flood, drought, storm, civil
8 disorder, earthquake, or volcanic eruption.

9 (3) An emergency meeting shall address only matters relating
10 to the emergency.

11 (e) No action or discussion shall be taken on any item not
12 appearing on an agenda or notice posted pursuant to subdivision
13 (b), (c), or (d), except under one or more of the following
14 conditions:

15 (1) The action or discussion consists of brief responses to
16 statements or questions posed by persons exercising their right to
17 public testimony under subdivision (g), questions for clarification,
18 brief announcements or reports of a member's personal activities,
19 or directions to staff to investigate an issue or to place that issue
20 on a future agenda.

21 (2) The item is continued from the agenda of a meeting that was
22 held less than six days previously.

23 (3) The house or committee finds, two-thirds of the membership
24 concurring, that there is a need to take immediate action and that
25 the need for immediate action became known to the body after the
26 agenda notice was posted.

27 (f) A writing distributed to all members of a house or committee
28 in connection with the consideration of an agenda item shall be
29 made available to the public unless that writing is statutorily
30 exempt from the mandatory disclosure requirements imposed by
31 statute.

32 (g) An agenda for a regularly scheduled meeting of a committee
33 shall provide an opportunity for members of the public to directly
34 address the committee on any item of interest to the public, before
35 or during the committee's consideration of the item, that is within
36 the subject matter jurisdiction of the committee. However, the
37 agenda need not provide an opportunity for members of the public
38 to address the committee on any item that has already been
39 considered, unless the item has been substantially changed since
40 the committee heard the item, as determined by the committee.

1 (h) The Legislature shall implement this section by concurrent
2 resolution adopted by rollcall vote entered in the journal, two-thirds
3 of the membership of each house concurring, or by statute, and
4 shall prescribe that, when a closed session is held pursuant to
5 paragraph (1) of subdivision (a), reasonable notice of the closed
6 session and the purpose of the closed session shall be provided to
7 the public. If there is a conflict between a concurrent resolution
8 and statute, the last adopted or enacted shall prevail.

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