

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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~~ Sections 7 and 8 of, and adding Section 7.3 to, Article IV thereof, relating to meetings of the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

ACA 8, as amended, 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. *Existing provisions of the California Constitution provide that no bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, $\frac{2}{3}$ of the membership concurring. Existing provisions of the California Constitution prohibit a bill from being passed until the bill with amendments has been printed and distributed to the members.*

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.

The measure would prohibit the passage of a bill in either house of the Legislature until the bill with amendments has been printed and distributed to the members of the house at least 24 hours before the vote in that house on passage of the bill.

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.

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

8 (4) Nothing in this subdivision supersedes or modifies any
9 provision of this Constitution, including the guarantees that a
10 person may not be deprived of life, liberty, or property without
11 due process of law, or denied equal protection of the laws, as
12 provided in Section 7.

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

19 (6) Nothing in this subdivision repeals, nullifies, supersedes, or
20 modifies protections for the confidentiality of proceedings and
21 records of the Legislature, the Members of the Legislature, and its
22 employees, committees, and caucuses provided by Sections 7 and
23 7.3 of Article IV, state law, or legislative rules adopted in
24 furtherance of those provisions; nor does it affect the scope of
25 permitted discovery in judicial or administrative proceedings
26 regarding deliberations of the Legislature, the Members of the
27 Legislature, and its employees, committees, and caucuses.

28 Second—That Section 7 of Article IV thereof is amended to
29 read:

30 SEC. 7. (a) Each house shall choose its officers and adopt
31 rules for its proceedings. A majority of the membership constitutes
32 a quorum, but a smaller number may recess from day to day and
33 compel the attendance of absent Members.

34 (b) Each house shall keep and publish a journal of its
35 proceedings. The rollcall vote of the Members on a question shall
36 be taken and entered in the journal at the request of three Members
37 present.

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

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

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

4 (A) To consider the appointment, employment, evaluation of
5 performance, or dismissal of a public officer or employee, to
6 consider or hear complaints or charges brought against a Member
7 of the Legislature or other public officer or employee, or to
8 establish the classification or compensation of an employee of the
9 Legislature.

10 (B) To consider matters affecting the safety and security of
11 Members of the Legislature or its employees or the safety and
12 security of any buildings and grounds used by the Legislature.

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

17 (2) A caucus of the Members of the Senate, the Members of the
18 Assembly, or the Members of both houses, which is composed of
19 the members of the same political party, may meet in closed
20 session.

21 (b) (1) At least 72 hours before a regularly scheduled meeting
22 of either house of the Legislature, or of a committee of either house,
23 the house or committee, as applicable, shall post an agenda
24 containing a brief general description of each item to be considered,
25 including items to be considered in closed session. A brief general
26 description of an item to be considered generally need not exceed
27 20 words, exclusive of the title of a bill.

28 (2) The agenda shall specify the time and location of the
29 regularly scheduled meeting and shall be posted in a location that
30 is freely accessible to the public and, if so requested, made
31 available in appropriate alternative formats accessible to persons
32 with a disability.

33 (c) A special meeting of a house or of a committee may be
34 called, as applicable, by the presiding officer or chair, or by a
35 majority of the members of the house or committee, by delivering
36 written notice to each member of the house or committee and to
37 each newspaper of general circulation and television or radio station
38 requesting notification. The notice must be delivered at least 24
39 hours prior to the scheduled special meeting and must specify the
40 time, place, and items to be considered at the special meeting. A

1 member may waive his or her right to receive written notice of a
2 special meeting by filing a written waiver with, as applicable, the
3 clerk of the house or the secretary of the committee. The written
4 notice may also be dispensed with for any member actually present
5 when the special meeting is convened.

6 (d) (1) An emergency meeting of a house or of a committee
7 may be called only by the presiding officer or chair, or by a
8 majority of the members of the house or committee, but only if an
9 emergency has been declared by the Governor and the declaration
10 is confirmed in a resolution adopted by the Legislature, by rollcall
11 vote entered in the journal, two thirds of the membership
12 concurring. An emergency meeting shall not be called sooner than
13 one hour after providing telephone notice to each member of the
14 house or committee and to each newspaper of general circulation
15 and television or radio station requesting notification.

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

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

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

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

28 (3) An emergency meeting shall address only matters relating
29 to the emergency.

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

34 (1) The action or discussion consists of brief responses to
35 statements or questions posed by persons exercising their right to
36 public testimony under subdivision (g), questions for clarification,
37 brief announcements or reports of a member’s personal activities,
38 or directions to staff to investigate an issue or to place that issue
39 on a future agenda.

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

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

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

(g) An agenda for a regularly scheduled meeting of a committee shall provide an opportunity for members of the public to directly address the committee on any 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. However, the agenda need not provide an opportunity for members of the public to address the committee on any item that has already been considered, unless the item has been substantially changed since the committee heard the item, as determined by the committee.

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

Fourth—That Section 8 of Article IV thereof is amended to read:

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, ~~three fourths~~ *three-fourths* of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring. No bill may be passed *in either house* until the bill with amendments

1 has been printed and distributed to the members of the house at
2 least 24 hours before the vote in that house on the passage of the
3 bill. No bill may be passed unless, by rollcall vote entered in the
4 journal, a majority of the membership of each house concurs.

5 (c) (1) Except as provided in paragraphs (2) and (3) of this
6 subdivision, a statute enacted at a regular session shall go into
7 effect on January 1 next following a 90-day period from the date
8 of enactment of the statute and a statute enacted at a special session
9 shall go into effect on the 91st day after adjournment of the special
10 session at which the bill was passed.

11 (2) A statute, other than a statute establishing or changing
12 boundaries of any legislative, congressional, or other election
13 district, enacted by a bill passed by the Legislature on or before
14 the date the Legislature adjourns for a joint recess to reconvene in
15 the second calendar year of the biennium of the legislative session,
16 and in the possession of the Governor after that date, shall go into
17 effect on January 1 next following the enactment date of the statute
18 unless, before January 1, a copy of a referendum petition affecting
19 the statute is submitted to the Attorney General pursuant to
20 subdivision (d) of Section 10 of Article II, in which event the
21 statute shall go into effect on the 91st day after the enactment date
22 unless the petition has been presented to the Secretary of State
23 pursuant to subdivision (b) of Section 9 of Article II.

24 (3) Statutes calling elections, statutes providing for tax levies
25 or appropriations for the usual current expenses of the State, and
26 urgency statutes shall go into effect immediately upon their
27 enactment.

28 (d) Urgency statutes are those necessary for immediate
29 preservation of the public peace, health, or safety. A statement of
30 facts constituting the necessity shall be set forth in one section of
31 the bill. In each house the section and the bill shall be passed
32 separately, each by rollcall vote entered in the journal, two thirds
33 of the membership concurring. An urgency statute may not create
34 or abolish any office or change the salary, term, or duties of any
35 office, or grant any franchise or special privilege, or create any
36 vested right or interest.