

Assembly Constitutional Amendment

No. 1

Introduced by Assembly Member Donnelly

December 3, 2012

Assembly Constitutional Amendment No. 1—A resolution to propose to the people of the State of California a revision of the Constitution of the State, by amending subdivision (b) of Section 8 of, and by adding Section 11.5 to, Article IV thereof, relating to administrative regulations.

LEGISLATIVE COUNSEL'S DIGEST

ACA 1, as introduced, Donnelly. Administrative regulations: legislative approval.

The California Constitution provides that the powers of government are legislative, executive, and judicial, and that persons charged with the exercise of one power may not exercise either of the other powers, with specified exceptions. The California Constitution prohibits the Legislature from making a law except by statute and from enacting a statute except by bill. The Legislature may statutorily authorize an administrative agency to adopt regulations to implement, interpret, or make specific the statutes that the agency is charged with enforcing or administering.

This measure would require an administrative agency to submit all regulations to the Legislature for approval. This measure would authorize the Legislature, by means of a concurrent resolution, to approve a regulation adopted by an administrative agency of the state.

This measure would also require the Legislature to enact legislation during the first year of the 2015–16 Regular Session to make all statutory changes necessary to conform with the constitutional amendments that would be made by this measure, if it is approved by the voters.

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

1 *Resolved by the Assembly, the Senate concurring,* That the
2 Legislature of the State of California at its 2013–14 Regular
3 Session commencing on the third day of December 2012,
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 revised as follows:

7 First—This measure shall be known and may be cited as the
8 Write the Laws Act.

9 Second—That subdivision (b) of Section 8 of Article IV thereof
10 is amended to read:

11 (b) ~~The~~*Except as provided by Section 11.5, the* Legislature may
12 make no law except by statute and may enact no statute except by
13 bill. No bill may be passed unless it is read by title on 3 days in
14 each house except that the house may dispense with this
15 requirement by rollcall vote entered in the journal, ~~two-thirds~~
16 *two-thirds* of the membership concurring. No bill may be passed
17 until the bill with amendments has been printed and distributed to
18 the members. No bill may be passed unless, by rollcall vote entered
19 in the journal, a majority of the membership of each house concurs.

20 Third—That Section 11.5 is added to Article IV thereof, to read:

21 SEC. 11.5. (a) On or after the effective date of this section, a
22 state agency shall not issue, utilize, enforce, or attempt to enforce
23 any regulation, as defined in Section 11342.600 of the Government
24 Code or its successor, that was proposed to be adopted or amended
25 on or after the effective date of this section, unless the state agency
26 complies with all applicable statutory procedures and requirements,
27 and, after the regulation is approved in accordance with those
28 procedures and requirements, submits the regulation to the
29 Legislature for its approval during a legislative session in
30 accordance with subdivision (b). The limitation of this subdivision
31 does not apply to an emergency regulation that is not effective for
32 more than 180 days.

33 (b) On or after the effective date of this section, the Legislature
34 may approve any regulation submitted to it by a state agency
35 pursuant to subdivision (a) by means of a concurrent resolution
36 adopted by rollcall vote in each house and recorded in the journal,
37 a majority of the membership concurring. A concurrent resolution

1 to approve a regulation shall embrace but one subject, which shall
2 be expressed in its title. If a concurrent resolution to approve a
3 regulation embraces a subject not expressed in its title, only the
4 part not expressed is void. If a concurrent resolution to approve a
5 regulation fails to obtain a majority vote in either house, the
6 regulation is disapproved. If the Legislature approves a regulation
7 in accordance with this subdivision, that regulation shall be
8 submitted to the Secretary of State for filing and shall become
9 effective on the date provided by statute. If a regulation is not
10 approved by the Legislature in accordance with this subdivision
11 within 60 calendar days after the regulation was submitted to the
12 Legislature during a legislative session, it is disapproved. A
13 regulation that is disapproved under this subdivision shall be
14 returned to the state agency that proposed it.

15 (c) This section does not apply to a regulation that was proposed
16 by a state agency prior to the effective date of this section.

17 (d) This section does not limit the Legislature's authority to do
18 any of the following:

19 (1) Enact a statute that has the effect of nullifying a regulation
20 adopted by an administrative agency of the State prior to or after
21 the effective date of this section.

22 (2) Establish statutory procedures and requirements for the
23 approval and adoption of regulations.

24 (3) Delegate to a state agency the authority to propose
25 regulations.

26 (e) During the first year of the 2015–16 Regular Session, the
27 Legislature shall enact legislation to make all statutory changes
28 necessary to conform with the amendment made by this measure
29 to Section 8 of Article IV of the California Constitution, and the
30 addition by this measure of Section 11.5 to Article IV of the
31 California Constitution.