

Assembly Constitutional Amendment

No. 9

Introduced by Assembly Member Gorell

February 21, 2013

Assembly Constitutional Amendment No. 9—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 5 of Article II thereof, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as introduced, Gorell. Voter-nominated primary elections.

Existing provisions of the California Constitution provide for a voter-nominated primary election for each congressional and state elective office in California, in which a voter may vote at the primary election for any candidate for a congressional or state elective office without regard to the political party preference disclosed by the candidate or the voter. Under the California Constitution, the candidates receiving the 2 highest vote totals for each voter-nominated office at a primary election, regardless of party preference, compete for the office at the ensuing general election.

This measure would provide that, for a person whose name was written in upon the ballot for the voter-nominated primary election for a congressional or state elective office, and is one of the top two vote-getters, to appear as a candidate for that office in the ensuing general election, the write-in candidate must have received votes at the primary election equal in number to at least 1 percent of all votes cast for the office at the last preceding general election at which the office was filled.

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 amended as follows:

7 That Section 5 of Article II thereof is amended to read:

8 SEC. 5. (a) A voter-nomination primary election shall be
9 conducted to select the candidates for congressional and state
10 elective offices in California. All voters may vote at a
11 voter-nominated primary election for any candidate for
12 congressional and state elective office without regard to the
13 political party preference disclosed by the candidate or the voter,
14 provided that the voter is otherwise qualified to vote for candidates
15 for the office in question. The candidates who are the top two
16 vote-getters—~~at a~~ *in the* voter-nominated primary election for a
17 congressional or state elective office shall, regardless of party
18 preference, compete in the ensuing general election. *However, a*
19 *person whose name was written in upon the ballot for the*
20 *voter-nominated primary election for a congressional or state*
21 *elective office, and is one of the top two-getters, shall not appear*
22 *as a candidate for that office in the ensuing general election unless*
23 *he or she receives votes at the primary election equal in number*
24 *to at least 1 percent of all votes cast for the office at the last*
25 *preceding general election at which the office was filled.*

26 (b) Except as otherwise provided by Section 6, a candidate for
27 a congressional or state elective office may have his or her political
28 party preference, or lack of political party preference, indicated
29 upon the ballot for the office in the manner provided by statute. A
30 political party or party central committee shall not nominate a
31 candidate for any congressional or state elective office at the
32 voter-nominated primary. This subdivision shall not be interpreted
33 to prohibit a political party or party central committee from
34 endorsing, supporting, or opposing any candidate for a
35 congressional or state elective office. A political party or party
36 central committee shall not have the right to have its preferred
37 candidate participate in the general election for a voter-nominated

1 office other than a candidate who is one of the two highest
2 vote-getters at the primary election, as provided in subdivision (a).

3 (c) The Legislature shall provide for partisan elections for
4 presidential candidates, and political party and party central
5 committees, including an open presidential primary whereby the
6 candidates on the ballot are those found by the Secretary of State
7 to be recognized candidates throughout the nation or throughout
8 California for the office of President of the United States, and those
9 whose names are placed on the ballot by petition, but excluding
10 any candidate who has withdrawn by filing an affidavit of
11 noncandidacy.

12 (d) A political party that participated in a primary election for
13 a partisan office pursuant to subdivision (c) has the right to
14 participate in the general election for that office and shall not be
15 denied the ability to place on the general election ballot the
16 candidate who received, at the primary election, the highest vote
17 among that party's candidates.