

Assembly Joint Resolution

No. 25

Introduced by Assembly Members Gorell and Conway
(Coauthors: Assembly Members Allen, Bigelow, Chávez, Dahle,
Donnelly, Beth Gaines, Grove, Hagman, Harkey, Jones, Linder,
Mansoor, Melendez, Morrell, Nestande, Olsen, Patterson,
Wagner, Waldron, and Wilk)

June 12, 2013

Assembly Joint Resolution No. 25—Relative to the Internal Revenue Service.

LEGISLATIVE COUNSEL’S DIGEST

AJR 25, as introduced, Gorell. Internal Revenue Service.

This measure would urge the President and the Internal Revenue Service (IRS) to comply with all requests related to congressional inquiries related to IRS misconduct in a full and transparent manner, and ensure that all government employees are made available for questions relating to the application of tax exempt status for religious organizations. This measure would also urge the appointment of an independent counsel to investigate the actions of the IRS.

Fiscal committee: no.

- 1 WHEREAS, Throughout its history, millions of people have
- 2 come to the United States seeking a haven from religious or
- 3 political persecution in their native lands; and
- 4 WHEREAS, The democratic ideals of religious liberty, the
- 5 freedom to associate and express one’s views without fear of harm
- 6 or recrimination, and a government that derives power from the

1 consent of the people it governs continue to be this nation’s guiding
2 principles; and

3 WHEREAS, People who live under oppressive regimes around
4 the world today look to the United States as a beacon of freedom,
5 and it is essential that officials at every level of government set an
6 example by administering just laws without malice or prejudice;
7 and

8 WHEREAS, The federal government is entrusted by the people
9 with great powers, including the power to tax, and the constitutional
10 guarantee of checks and balances was first established to safeguard
11 Americans from harassment or intimidation based on their political
12 or religious beliefs; and

13 WHEREAS, President Barack Obama encouraged all Americans
14 in the 2013 proclamation for “Religious Freedom Day” to “let us
15 remember the legacy of faith and independence we have inherited,
16 and let us honor it by forever upholding our right to exercise our
17 beliefs free from prejudice or persecution; and

18 WHEREAS, Organizations, such as nonprofits and charities,
19 seeking federal tax’ exempt status are required to file an application
20 with the Internal Revenue Service (IRS); and

21 WHEREAS, The IRS’s Exempt Organizations Function, Rulings
22 and Agreements Office, which is headquartered in Washington,
23 D.C., is responsible for processing applications for tax-exempt
24 status and for reviewing applications as they are received to
25 determine whether organizations qualify for this status; and

26 WHEREAS, During 2012, members of Congress raised concerns
27 to the IRS about targeting non-profits and charities based on their
28 perceived political position and the IRS’s performance of its duty
29 to treat similarly situated organizations consistently. In addition,
30 several organizations applying for tax-exempt status under IRS’s
31 Section 501 (c) (4) of the Internal Revenue Code made allegations
32 that the IRS targeted specific groups applying for tax-exempt
33 status, delayed the processing of targeted groups’ applications for
34 tax-exempt status, and requested unnecessary information from
35 targeted organizations; and

36 WHEREAS, In early 2012, the Inspector General for Tax
37 Administration began an audit reviewed case files using acceptable
38 government accounting standards. Case files were selected in June
39 2012 and the audit was concluded in February 2013; and

1 WHEREAS, The Inspector General for Tax Administration
2 found that the IRS in 2010 “developed and began using criteria to
3 identify potential political cases for review that inappropriately
4 identified specific groups applying for tax-exempt status based on
5 their names and policy positions” (Inspector General’s Final Audit
6 Report reference number 2013-10-053, Page 5); and

7 WHEREAS, The Inspector General’s report found that the IRS
8 developed and began using criteria to review specific groups
9 applying for tax-exempt status based on their names or policy
10 positions instead of developing unbiased criteria based on the tax
11 laws and treasury regulations; and

12 WHEREAS, IRS officials started using search terms such as
13 “patriot,” “9/11,” and “tea party” to flag certain applicants for
14 additional scrutiny and placing them in a “Sensitive Case Report”
15 resulting in the use of selected criteria for reviewing their
16 applications; and

17 WHEREAS, Some flagged organizations were required to
18 provide further documentation, including what books their
19 members were reading, as well as what they had posted on social
20 networking Websites. One group was asked to “please detail the
21 content of the members of your organization prayers.”
22 Organizations were informed that if they did not provide the
23 information sought, they would not be certified as tax-exempt; and

24 WHEREAS, In 2010, several Jewish groups were targeted by
25 the IRS and asked inappropriately whether their group “supported
26 the existence of the land of Israel”; and

27 WHEREAS, The Treasury Inspector General for Tax
28 Administration made numerous recommendations to the IRS,
29 including that they should document the reasons why applications
30 potentially involving political campaign intervention are chosen
31 for review, develop a process to track requests for assistance, and
32 expeditiously resolve remaining political campaign intervention
33 cases, some of which have been in process for three years, and
34 request that social welfare activity guidance be developed by the
35 Department of Treasury; and

36 WHEREAS, Senior program managers at the IRS have refused
37 to answer Congress’s questions under oath, invoking their right to
38 plead the fifth Amendment under the advice of legal counsel; and

39 WHEREAS, The IRS must do more so that the public has
40 reasonable assurance that the IRS will not use political criteria to

1 administer the tax laws of the nation and will operate in a fair and
2 impartial manner in the future; now therefore, be it

3 *Resolved by the Assembly and the Senate of the State of*
4 *California, jointly,* That the Legislature holds that government
5 agencies, including the IRS, should apply the law fairly. Profiling
6 citizens based on their political positions should not be allowed;
7 and be it further

8 *Resolved,* That the Legislature commends the United States
9 Congress for investigating the alleged misconduct at the Internal
10 Revenue Service and urges the President and the Internal Revenue
11 Service to comply with all requests related to congressional
12 inquiries in a full and transparent manner and ensure that all
13 government employees are made available for questions relating
14 to these matters; and be it further

15 *Resolved,* That an independent counsel be appointed to
16 investigate the actions of the IRS in this matter and to determine
17 if any violations of law or policy occurred, and be it further

18 *Resolved,* That the Legislature condemns the actions of those
19 involved in the misuse of their office and position to discriminate
20 against individuals based on their political views; and be it further

21 *Resolved,* That the Legislature stands in support of the Treasury
22 Inspector General for Tax Administration's recommendations for
23 the Internal Revenue Service and urges that, if the IRS fails to take
24 action, Congress should pass and the President should sign
25 legislation that enacts those recommendations into federal law.