

**Introduced by Senator Steinberg**February 20, 2014

---

Senate Constitutional Amendment No. 16—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article IV thereof, relating to the Legislature.

## LEGISLATIVE COUNSEL'S DIGEST

SCA 16, as introduced, Steinberg. Members of the Legislature: vacancy.

The California Constitution requires the Governor to call an election to fill a vacancy occurring in either house of the Legislature.

This measure would instead require the Governor to fill a vacancy in either house of the Legislature by appointment within 21 days of the date of the vacancy, and would require that the appointee, at the time of the appointment and during the 12-month period immediately preceding the appointment, have the same political party preference as the vacating Member had when he or she was last elected to the Legislature. The measure would allow the house to which the appointment is made to reject the appointment, by a majority vote, within 21 days of the appointment, in which case the Governor would be required to make another appointment. If an appointment is not rejected, the appointee would be eligible to take office the day after the end of the 21-day period and would serve for the remainder of the term of the vacating Member, except as specified.

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

1     *Resolved by the Senate, the Assembly 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 2 of Article IV thereof is amended to read:

8     SEC. 2. (a) (1) The Senate has a membership of 40 Senators  
9     elected for ~~4-year~~ *four-year* terms, 20 to begin every ~~2~~ *two* years.

10    (2) The Assembly has a membership of 80 ~~members~~ *Members*  
11    elected for ~~2-year~~ *two-year* terms.

12    (3) The ~~terms~~ *term* of a Senator or a Member of the Assembly  
13    shall commence on the first Monday in December next following  
14    her or his election.

15    (4) During her or his lifetime, a person may serve no more than  
16    12 years in the Senate, the Assembly, or both, in any combination  
17    of terms. This ~~subdivision~~ *paragraph* shall apply only to those  
18    Members of the Senate or the Assembly who are first elected *or*  
19    *appointed* to the Legislature after ~~the effective date of this~~  
20    ~~subdivision~~ *June 5, 2012*, and who have not previously served in  
21    the Senate or Assembly. Members of the Senate or Assembly who  
22    were elected *on or before* ~~the effective date of this subdivision~~  
23    ~~June 5, 2012~~, may serve only the number of terms allowed at the  
24    time of the last election before ~~the effective date of this subdivision~~  
25    ~~June 5, 2012~~.

26    (b) Election of ~~members~~ *Members* of the Assembly shall be on  
27    the first Tuesday after the first Monday in November of  
28    even-numbered years unless otherwise prescribed by the  
29    Legislature. Senators shall be elected at the same time and places  
30    as ~~members~~ *Members* of the Assembly.

31    (c) A person is ineligible to be a ~~member~~ *Member* of the  
32    Legislature unless the person is an elector and has been a resident  
33    of the legislative district for one year, and a citizen of the United  
34    States and a resident of California for ~~3~~ *three* years, immediately  
35    preceding ~~the his or her~~ *his or her* election *or appointment*, and service of  
36    the full term of office to which the person is seeking to be elected,  
37    *or is to be appointed*, would not exceed the maximum years of  
38    service permitted by *paragraph (4) of subdivision (a)* ~~of this~~  
39    ~~section~~.

1 ~~(d) When a vacancy occurs in the Legislature the Governor~~  
2 ~~immediately shall call an election to fill the vacancy.~~

3 (d) (1) (A) *If a vacancy occurs in the Legislature, the Governor*  
4 *shall fill the vacancy by appointment within 21 days of the date of*  
5 *the vacancy.*

6 (B) *A person appointed pursuant to subparagraph (A) shall*  
7 *have, at the time of the appointment and during the 12-month*  
8 *period immediately preceding, the same political party preference*  
9 *as the vacating Member had at the time he or she was last elected*  
10 *to the Legislature. If the vacating Member declined to disclose a*  
11 *political party preference at the time he or she was last elected to*  
12 *the Legislature, the Governor may make an appointment regardless*  
13 *of political party preference.*

14 (2) *Within 21 days of an appointment made pursuant to*  
15 *paragraph (1), excluding any period during which the house is in*  
16 *recess, the house to which the appointment is made may reject the*  
17 *appointment by a rollcall vote entered in the journal, a majority*  
18 *of the membership of the house concurring. If the house rejects*  
19 *the appointment, the Governor shall make another appointment*  
20 *within 21 days of the date of the rejection, subject to rejection by*  
21 *the house pursuant to this paragraph.*

22 (3) (A) *If an appointment is not rejected pursuant to paragraph*  
23 *(2), the appointee is eligible to take office on the day following the*  
24 *21-day period provided for in paragraph (2) and, except as*  
25 *provided in subparagraph (B), shall serve until the end of the term*  
26 *of the office to which the appointee is appointed.*

27 (B) *In the case of a seat in the Senate, the term of which does*  
28 *not end in the same year as the end of the biennium of the regular*  
29 *session of the Legislature during which the vacancy occurred, the*  
30 *appointee shall not serve the remainder of the unexpired term.*  
31 *Instead, a special election shall be held on the date of the statewide*  
32 *general election immediately preceding the end of the biennium*  
33 *of the regular session to fill the remainder of the unexpired term,*  
34 *provided that the election occurs not sooner after the date of the*  
35 *vacancy than a period specified by statute. If a special election is*  
36 *not held pursuant to this subparagraph, the appointee shall serve*  
37 *the remainder of the unexpired term.*