

**Assembly Constitutional Amendment**

**No. 9**

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**Introduced by Assembly Member Gomez**

February 19, 2016

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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 Sections 2 and 5 of Article IV thereof, relating to the Legislature.

LEGISLATIVE COUNSEL'S DIGEST

ACA 9, as introduced, Gomez. Legislature: legislative vacancies.

The California Constitution, when a vacancy occurs in the Legislature, requires the Governor to immediately call an election to fill the vacancy.

This measure would instead require the Governor to fill a vacancy in either house of the Legislature by making an appointment within 60 days of the date of the vacancy from a list of 3 names selected by certain entities. The persons nominated by the entities would be required to have, at the time nominated and during the 12-month period immediately preceding, the same political party preference as the vacating Member had when he or she was last elected to the Legislature.

This measure would further require a person who vacates his or her position to payback the salary and travel and living expenses he or she received during the incomplete term of office, unless the Member vacated the seat for personal medical reasons.

The California Constitution requires the Legislature to enact laws prohibiting a Member of the Legislature from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

This measure would, in addition, prohibit a Member of the Legislature who vacates his or her seat prior to the expiration of the term of office for other than personal medical reasons from being permitted to lobby, for compensation before the Legislature until 12 months have passed from the date his or her term of office would have expired.

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 2015–16 Regular  
3 Session commencing on the first day of December 2014, 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— The Legislature finds and declares that Members of  
8 the Legislature are expected to fulfill the full term of office to  
9 which they have been elected.

10    Second— That Section 2 of Article IV thereof is amended to  
11 read:

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

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

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

19    (4) During her or his ~~lifetime~~ *lifetime*, a person may serve no  
20 more than 12 years in the Senate, the Assembly, or both, in any  
21 combination of terms. This ~~subdivision~~ *paragraph* shall apply only  
22 to those Members of the Senate or the Assembly who are first  
23 elected to the Legislature after ~~the effective date of this subdivision~~  
24 *June 5, 2012*, and who have not previously served in the Senate  
25 or Assembly. Members of the Senate or Assembly who were  
26 elected ~~on or before the effective date of this subdivision~~ *June 5,*  
27 *2012*, may serve only the number of terms allowed at the time of  
28 the last election before ~~the effective date of this subdivision.~~ *June*  
29 *5, 2012.*

30    (b) Election of ~~members~~ *Members* of the Assembly shall be on  
31 the first Tuesday after the first Monday in November of  
32 even-numbered years unless otherwise prescribed by the

1 Legislature. Senators shall be elected at the same time and places  
2 as ~~members~~ *Members* of the Assembly.

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

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

14 *(d) (1) If a vacancy occurs in either house of the Legislature,*  
15 *each of the following shall, within 30 days of the vacancy, provide*  
16 *the Governor one name of a person nominated for appointment to*  
17 *the vacancy:*

18 *(A) In the house in which the vacancy occurs, the legislative*  
19 *caucus of the same political party preference the vacating Member*  
20 *had at the time he or she was last elected to the Legislature. The*  
21 *legislative caucus shall agree by a majority vote on the name of*  
22 *the person to submit to the Governor for consideration.*

23 *(B) The delegates to the state convention of the same political*  
24 *party preference the vacating Member had at the time he or she*  
25 *was last elected to the Legislature who reside in the vacating*  
26 *Member's district boundaries. The delegates shall agree by a*  
27 *majority vote on the name of the person to submit to the Governor*  
28 *for consideration.*

29 *(C) The county board of supervisors of the county or counties*  
30 *in which the vacating Member's district is located. The county*  
31 *board of supervisors or boards of supervisors jointly, as applicable,*  
32 *shall adopt a resolution setting forth the name of the person to*  
33 *submit to the Governor for consideration.*

34 *(2) The persons nominated pursuant to paragraph (1) shall*  
35 *have, at the time they are nominated and during the 12-month*  
36 *period immediately preceding, the same political party preference*  
37 *as the vacating Member had at the time he or she was last elected*  
38 *to the Legislature.*

1 (3) *Within 60 days of a vacancy in the Legislature, the Governor*  
2 *shall fill the vacancy by appointing one of the persons nominated*  
3 *pursuant to paragraph (1).*

4 (4) *Unless a Member of the Legislature vacates his or her seat*  
5 *for personal medical reasons, the vacating Member shall reimburse*  
6 *the State for the full amount of the salary and travel and living*  
7 *expenses he or she received during the term of office for which he*  
8 *or she was last elected to the Legislature.*

9 (5) *The Legislature shall enact laws implementing this*  
10 *subdivision.*

11 Third— That Section 5 of Article IV thereof is amended to  
12 read:

13 SEC. 5. (a) Each house shall judge the qualifications and  
14 elections of its Members and, by rollcall vote entered in the journal,  
15 ~~two-thirds~~ *two-thirds* of the membership concurring, may expel a  
16 Member.

17 (b) No Member of the Legislature may accept any honorarium.  
18 The Legislature shall enact laws that implement this subdivision.

19 (c) The Legislature shall enact laws that ban or strictly limit the  
20 acceptance of a gift by a Member of the Legislature from any  
21 source if the acceptance of the gift might create a conflict of  
22 interest.

23 (d) No Member of the Legislature may knowingly accept any  
24 compensation for appearing, agreeing to appear, or taking any  
25 other action on behalf of another person before any state  
26 government board or agency. If a Member knowingly accepts any  
27 compensation for appearing, agreeing to appear, or taking any  
28 other action on behalf of another person before any local  
29 government board or agency, the Member may not, for a period  
30 of one year following the acceptance of the compensation, vote  
31 upon or make, participate in making, or in any way attempt to use  
32 his or her official position to influence an action or decision before  
33 the Legislature, other than an action or decision involving a bill  
34 described in subdivision (c) of Section 12 of this article, which he  
35 or she knows, or has reason to know, would have a direct and  
36 significant financial impact on that person and would not impact  
37 the public generally or a significant segment of the public in a  
38 similar manner. As used in this subdivision, “public generally”  
39 includes an industry, trade, or profession. However, a Member  
40 may engage in activities involving a board or agency which are

1 strictly on his or her own behalf, appear in the capacity of an  
2 attorney before any court or the Workers' Compensation Appeals  
3 Board, or act as an advocate without compensation or make an  
4 inquiry for information on behalf of a person before a board or  
5 agency. This subdivision does not prohibit any action of a  
6 partnership or firm of which the Member is a member if the  
7 Member does not share directly or indirectly in the fee, less any  
8 expenses attributable to that fee, resulting from that action.

9 (e) The Legislature shall enact laws that prohibit a Member of  
10 the Legislature whose term of office commences on or after  
11 December 3, 1990, from lobbying, for compensation, as governed  
12 by the Political Reform Act of 1974, before the Legislature for 12  
13 months after leaving office, *provided that a Member who has*  
14 *vacated his or her seat prior to the expiration of his or her term*  
15 *of office for other than personal medical reasons shall not be*  
16 *permitted to lobby before the Legislature for compensation until*  
17 *12 months have passed from the date his or her term of office was*  
18 *scheduled to expire.*

19 (f) The Legislature shall enact new laws, and strengthen the  
20 enforcement of existing laws, prohibiting Members of the  
21 Legislature from engaging in activities or having interests which  
22 conflict with the proper discharge of their duties and  
23 responsibilities. However, the people reserve to themselves the  
24 power to implement this requirement pursuant to Article II.

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