

AMENDED IN SENATE MAY 5, 2016
AMENDED IN SENATE APRIL 26, 2016
AMENDED IN ASSEMBLY MARCH 10, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Joint Resolution

No. 32

**Introduced by Assembly Member Alejo
(Coauthor: Assembly Member Chiu)**

February 19, 2016

Assembly Joint Resolution No. 32—Relative to United States Supreme Court nominations.

LEGISLATIVE COUNSEL’S DIGEST

AJR 32, as amended, Alejo. United States Supreme Court: nominations.

This measure would urge the United States Senate to fairly consider the nomination for Justice to the United States Supreme Court submitted by President Obama and to vote up or down on the nomination.

Fiscal committee: no.

1 WHEREAS, The Supreme Court of the United States is the
2 highest Court in the Nation and considers important national
3 questions whose determination is necessary for the orderly
4 operation of the federal government and the government of the
5 several states; and
6 WHEREAS, Having an even number of justices on the Supreme
7 Court of the United States makes it possible to have numerical ties
8 in controversial decisions before the Court, which could leave

1 unresolved conflicts of law between the several Circuit Courts of
2 Appeal across the Nation; and

3 WHEREAS, A failure to ensure conformity of federal and state
4 law across the several states would severely compromise the
5 fundamental constitutional principles of due process and equal
6 protection under the law; and

7 WHEREAS, Section 2 of Article II of the United States
8 Constitution provides the President of the United States with the
9 power to nominate justices to the Supreme Court of the United
10 States with the advice and consent of the United States Senate;
11 and

12 WHEREAS, Barack Obama was duly reelected as President of
13 the United States on November 6, 2012, with 332 electoral votes
14 and nearly 5 million more votes than his opponent, and retains the
15 full powers and privileges of that office until his term ends on
16 January 20, 2017; and

17 WHEREAS, By reelecting Barack Obama as President of the
18 United States, the American people have already voiced their
19 affirmation that he is their choice to exercise the powers of the
20 Presidency, including filling vacancies on the Supreme Court of
21 the United States that arise during his term in office; and

22 WHEREAS, There is historical precedence for confirming
23 nominees for Justice of the Supreme Court of the United States
24 during the final year of a president's term, including Justice
25 Anthony Kennedy of California by President Ronald Reagan in
26 1988; Justice Frank Murphy of Michigan by President Franklin
27 D. Roosevelt in 1940; and Justice Louis Brandeis of Kentucky by
28 President Woodrow Wilson in 1916; Justice George Shiras, Jr. by
29 President Benjamin Harrison in 1892; Justice Melville Fuller by
30 President Grover Cleveland in 1888; Justice William Johnson by
31 President Thomas Jefferson in 1804; and Chief Justice John
32 Marshall by President John Adams in 1801; and

33 WHEREAS, The United States Senate has a duty afforded by
34 Section 2 of Article II of the United States Constitution to provide
35 the President of the United States with their advice and consent to
36 nominations to the Supreme Court of the United States made by
37 the President, and refusing to even give due consideration to a
38 presidential nomination would be a dereliction of the Senate's
39 constitutional duties; now, therefore, be it

1 *Resolved by the Assembly and the Senate of the State of*
2 *California, jointly,* That the Legislature urges the United States
3 Senate to give ~~whomever President Obama nominates~~ *President*
4 *Obama's nominee* to the Supreme Court of the United States fair
5 and honest consideration through an up or down vote, both on the
6 Senate Judiciary Committee and on the floor of the United States
7 Senate; and be it further
8 *Resolved,* That the Chief Clerk of the Assembly transmit copies
9 of this resolution to the President and Vice President of the United
10 States, to the Speaker of the House of Representatives, to the
11 Minority Leader of the House of Representatives, to the Majority
12 Leader of the Senate, to the Minority Leader of the Senate, and to
13 each Senator and Representative from California in the Congress
14 of the United States.

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