

Assembly Joint Resolution No. 32

RESOLUTION CHAPTER 151

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

[Filed with Secretary of State August 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 32, 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.

WHEREAS, The Supreme Court of the United States is the highest Court in the Nation and considers important national questions whose determination is necessary for the orderly operation of the federal government and the government of the several states; and

WHEREAS, Having an even number of justices on the Supreme Court of the United States makes it possible to have numerical ties in controversial decisions before the Court, which could leave unresolved conflicts of law between the several Circuit Courts of Appeal across the Nation; and

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

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

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

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

WHEREAS, There is historical precedence for confirming nominees for Justice of the Supreme Court of the United States during the final year of a president's term, including Justice Anthony Kennedy of California by President Ronald Reagan in 1988; Justice Frank Murphy of Michigan by President Franklin D. Roosevelt in 1940; Justice Louis Brandeis of Kentucky by President Woodrow Wilson in 1916; Justice George Shiras, Jr. by

President Benjamin Harrison in 1892; Justice Melville Fuller by President Grover Cleveland in 1888; Justice William Johnson by President Thomas Jefferson in 1804; and Chief Justice John Marshall by President John Adams in 1801; and

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

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature urges the United States Senate to give President Obama's nominee to the Supreme Court of the United States fair and honest consideration through an up or down vote, both on the Senate Judiciary Committee and on the floor of the United States Senate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Minority Leader of the House of Representatives, to the Majority Leader of the Senate, to the Minority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.