

1971

Final Summary of Seleted Legislation Relating to Amending the California Consitution

Constitutional Amendments Committee

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1971 REGULAR SESSION
of the
CALIFORNIA STATE LEGISLATURE

FINAL SUMMARY
OF
SELECTED LEGISLATION
RELATING TO AMENDING
THE CALIFORNIA CONSTITUTION

CONSTITUTIONAL AMENDMENTS COMMITTEE

ALEX P. GARCIA
Chairman
ROBERT C. CLINE
Vice Chairman

William T. Bagley
Robert G. Beverly
John T. Knox

Alister McAlister
David C. Pierson
Floyd L. Wakefield

Samuel S. Farr, Consultant
Alberta Perez, Secretary

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CALIFORNIA STATE LEGISLATURE

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T A B L E O F C O N T E N T S

LS9, 701

CALIFORNIA LEGISLATURE

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JAN 25 1973

CONSTITUTION REVISION COMMISSION

The California Constitution Revision Commission was established by the Legislature in 1963 to make recommendations for overall constitutional revision. The sixty-citizen commission included leaders of the academic community, bench, bar, business, labor and civic associations. Several members were former legislators.

The Commission served as an advisory body to the Legislature for the past eight years, studying each Article of the California Constitution and recommending changes.

The Legislature must approve the recommended changes with a two-thirds vote of each house before they may appear on the ballot for approval by the electorate.

When the Revision Commission began its work, the California Constitution was 80,000 words long, ten times the length of the U.S. Constitution and fourth longest in the world. The Constitution had been amended 344 times since 1879, (the second State Constitution), and was filled with inconsistencies, redundancies, and statutory material.

STATUS OF COMMISSION'S RECOMMENDATION

To date less than one-half of the Revision Commission's recommended changes have been submitted by the Legislature and approved by the voters. Thus far the following revised Articles have been approved:

ADOPTED

<u>Article</u>	<u>Title</u>
III	Separation of Powers
IV	Legislative
V	Executive
VI	Judicial
VII	(Repealed November 8, 1966)
VIII	(Repealed November 8, 1966)
XI	Local Government
XVIII	Amending and Revising the Constitution
XX	Miscellaneous Subjects (partially revised)
XXIV	State Civil Service
XXVII	(Repealed November 3, 1970)

Still remaining to be passed by the Legislature and submitted to the voters are the following Articles:

TO BE ADOPTED

<u>Article</u>	<u>Title</u>
I	Declaration of Rights
II	Right of Suffrage
IX	Education
X	State Institutions and Public Buildings
XII	Corporations
XIII	Revenue and Taxation
XIV	Water and Water Rights (no changes recommended)
XV	Harbor Frontages, etc.
XVI	State Indebtedness
XX	Miscellaneous
XXI	Boundary
XXII	Schedule
XXIII	Recall of Public Officers
XXVI	Motor Vehicle Taxation
XXXIV	Public Housing Project Law

It is hoped that many of the above fifteen Articles yet to be revised will be adopted by the 1972 Legislature and submitted to the voters in June, 1972, for final approval.

BILLS HEARD IN CONSTITUTIONAL AMENDMENTS COMMITTEE

CONSTITUTION REVISION

ACA 66 (Garcia) Deletion of Obsolete or Superseded Provisions

SUMMARY: Repeals various temporary provisions specifying the effect of the adoption of the Constitution in 1879 upon then existing law and a provision specifying the effect of constitutional amendments proposed solely to eliminate obsolete or superseded provisions of the Constitution.

ACTION TAKEN: Passed Assembly on consent calendar; failed in Senate Governmental Organization Committee.

NOTE: ACA 66 was amended November 2, 1971, in Senate Governmental Organization to include the California State Employees Association proposal to add a State Employee Relations article to the California Constitution. The article would provide for semi-annual salary surveys by State Personnel Board, inclusion of survey recommendations in budget, and removal or reduction thereof only by 2/3 vote of the Legislature. It would also provide that employment agreements must be in writing, State employees must elect by secret ballot their employee representative organizations, all disputes would be subject to arbitration, and a State Employment Relations Board would be created to enforce the article.

This amended version passed out of Senate Governmental Organization but was held in Senate Finance Committee.

ACA 71 (Waxman) Revision of the Bill of Rights
(Companion AB 2793)

SUMMARY: Revises various constitutional provisions relating to rights of persons, rights of suffrage, state government, and enactment of laws.

Follows recommendation of California Constitution Revision Commission relating to Articles I, II, and III of the Constitution of the State of California.

ACTION TAKEN: Held in Assembly Constitutional Amendments Committee for further study.

COURT REFORM

*SCA 42 (Cologne) Criminal Procedure
(Companion SB 839)

SUMMARY: Eliminates provision specifying that defendant has a right to appear and defend in person in a criminal case and authorizes Legislature to require defendants to have

assistance of counsel in felony cases. Companion legislation requires defendants to be represented by counsel in a capital case at all stages of the preliminary and trial proceedings.

ACTION TAKEN: Passed both houses and enrolled by Secretary of State as Chapter 240. Will appear on the 1972 June ballot.

DRINKING AGE

ACA 63 (Cline) 18-Year-Old Drinking

SUMMARY: Permits minors 18-20 years of age to possess and consume alcoholic beverages. Census data indicates that there are an estimated 1,100,000 people in California between the ages of 18 and 20. With adoption of this amendment California would join New York, Louisiana, and Tennessee in selling liquor to 18 year olds.

ACTION TAKEN: Passed Assembly and refused passage on Senate floor.

EDUCATION

ACA 31 (Vasconcellos) Power to School Districts
(Companion AB 472)

SUMMARY: Would grant power to district school boards to initiate and carry on any educational program which is not specifically prohibited by law.

ACTION TAKEN: Denied passage on Senate floor.

ACA 73 (Meade) Prohibition of College Tuition

SUMMARY: Would prohibit charging any California resident any tuition fee or other fee for specified funding purposes at any public community college, State college, or the University of California.

ACTION TAKEN: Failed in Assembly Ways and Means Committee

ACA 37 (Collier) Public School Apportionment

SUMMARY: Deletes constitutional provisions setting specified amounts for apportionment from the State School Fund.

1. State School Fund: This fund is the vehicle for the State's financial support to public education at the elementary, secondary, and community college levels...each

fiscal year money is transferred from the General Fund to the State School Fund for apportionment to the local school districts...transfer formulas are established in both the Constitution and statutory law.

2. Apportionment of School Fund to School Districts: Every school district, regardless of its local wealth, is guaranteed a \$120 per average daily attendance (ADA) by the Constitution, and \$125 by statute. (The statutory amount is \$5 more). The 1970-71 estimated amount apportioned by these formulas is \$125 x 5,110,054 (total ADA) = \$638,756,750. Depending on local conditions, the Legislature may contribute additional amounts.

This amendment would allow the Legislature to apportion according to district need, but not without enacting specific legislation. Otherwise the deletion has no effect since statutory law has the same provisions as the Constitution.

ACTION TAKEN: Passed Assembly and failed in the Senate Education Committee.

SCA 44 (Nejedly) Regents of University of California

SUMMARY: Requires that the Governor's appointments to the Board of Regents of the University of California be approved by a majority of the members of the Senate.

Regents are appointed to serve sixteen-year terms (compared to trustees of State Colleges, serve eight years). Terms expire on March 1 of every even-numbered calendar year....vacancies are filled for the balance of the term of the vacancy, thus in two terms the incumbent Governor will fill eight positions in addition to any vacancies that may occur.

ACTION TAKEN: Passed both houses and enrolled as Chapter 256. Will appear on 1972 June ballot.

ELECTION REFORM

ACA 52 (Miller) Fees for Deputy Registrar of Voters

SUMMARY: Adds requirement that every county must pay its deputy registrar of voters a fee which would be determined by the Legislature.

At present there is no requirement that counties must pay a uniform fee to deputy registrar of voters.

The law is permissive -- as demonstrated by the following rates.

<u>Fee Paid For Each Voter Registered</u>	<u>Number of Counties</u>	
none	7	includes S.F. & Alpine
5 cents	2	
8 "	1	
10 "	29	
12 "	1	
15 "	5	
20 "	2	
25 "	10	
30 "	1	(Kern)

Case law has determined that deputy registrar of voters are not county officers, but rather county "employees". Only local governing bodies may prescribe compensation for county employees. This amendment would prevent a conflict of power by granting the Legislature the authority to establish a uniform fee structure for deputy registrar of voters.

ACTION TAKEN: Held in Assembly Constitutional Amendments Committee.

SCA 29 (Carpenter) Changes Date Constitutional Amendments Take Effect

SUMMARY: Provides that Constitutional Amendments take effect on the day of the official declaration of vote by Secretary of State instead of the day after the election.

ACTION TAKEN: Passed Senate and was held in Assembly Constitutional Amendments Committee.

ACA 15 (Thomas) Election of Appellate Court Judges (Companion AB 84)

SUMMARY: Allows the Legislature to provide that an incumbent judge of a court of appeal need not appear on ballot unless a voter's petition requesting ballot placement is filed. The voter's petition would require signatures of 100 voters of the appellate district to be filed with the county clerk at least 59 days prior to election. In multi-county districts the petition would be filed with the Secretary of State.

ACTION TAKEN: Held in Assembly Constitutional Amendments Committee.

SCA 3 (Alquist) Presidential Primary Election

SUMMARY: Requires Secretary of State to place all publicly recognized candidates for President on the primary ballot. Other candidates could qualify by petition. Any candidate could withdraw his name by filing an affidavit with the Secretary of State stating that he is not a candidate.

Existing California law regarding presidential primaries dates back to 1912. The law allows registered party voters to choose between statewide slates. Recent changes permit uninstructed delegate slates.

The proposed amendment was first initiated in Oregon in 1910 and is now followed by Maryland, Nebraska, Tennessee, and Wisconsin.

ACTION TAKEN: Passed both houses and was enrolled as Chapter 274 by the Secretary of State. The proposed amendment will appear on the June 1972 ballot.

ENVIRONMENTAL PROTECTION

ACA 26 (Z'berg) Conservation of Natural Resources

SUMMARY: Declares that conservation and protection of the State's natural resources and scenic beauty are state policies and rights of the people. Requires Legislature to provide for acquisition and dedication of property for state nature and historical preserves. Existing state law does not guarantee any broad "environmental rights" nor does the federal constitution contain specific provision dealing with environmental rights, however New York has adopted a proposal stating that conservation is a state policy.

ACTION TAKEN: Passed Assembly; denied passage on the Senate floor.

GRAND JURIES

ACA 35 (Brown) Grand Juries - Criminal Indictment

SUMMARY: Eliminates constitutional authority for grand juries to prosecute by indictment except in cases of escaped felons.

An indictment is an accusation in writing presented by a grand jury to the Superior Court, charging a person with a public offense. Elimination of the indictment would leave grand juries to investigations in civil matters.

Twenty-eight states require indictment either by Constitution or Statute. The rationale behind indictment law appears to be the belief that grand juries provide effective methods of protecting individuals from unfounded accusation.

ACTION TAKEN: Held in Assembly Constitutional Amendments Committee for further study.

ACA 28 (Z'berg) Selection of Grand Juries
(Companion AB 447)

SUMMARY: Requires the selection of two grand juries rather than one. The first grand jury would have the primary purpose of presenting indictment; the second would have the primary purpose of investigating governmental affairs and would not indict. The selection of the indictment jury members would be by random selection; jury members would serve for 30 days only. Also provides that all grand jurors be registered voters.

ACTION TAKEN: Denied passage on Assembly floor.

HOUSING

ACA 25 (Bagley) Public Housing

SUMMARY: Repeals law that requires low-rent housing projects to be approved by a majority vote of the electors in the city or county where the project is to be located. Substitutes new language requiring low-rent housing projects to be approved by governing body of the county or city wherein the project is proposed. Would make the governing body's decision subject to referendum by the electors.

Under existing constitutional language local housing authorities must bear the cost of informing the public on the merits of low-rent housing. California voters have rejected an estimated 48 per cent of low-rent housing referendums since adoption of existing constitutional language by initiative amendment in 1950. These rejections represent over 16,000 units (average cost/unit is \$15,000), or total loss of possible federal funds of over \$25 million.

Estimated California need for low-rent housing is 25,000 new units per year.

ACTION TAKEN: Died on the Assembly inactive file.

ACA 39 (Ralph) Public Housing

SUMMARY: Same as above only this measure requires approval or disapproval for low-rent housing by governing body to be preceded by at least two public hearings.

ACTION TAKEN: Denied passage on Assembly floor.

LEGISLATURE

ACA 22 (Harvey Johnson) Extends Legislators' Terms

SUMMARY: Extended terms of Senators from 4 to 6 years and terms of Assemblymen from 2 years to 4 years.

Although no other state has 6-year terms for State Senators, twelve states provide for 2-year terms, including New York and New Jersey. Originally California established a 1-year term for Assemblymen. The length was extended to its present 2-year term in 1862. Four other states have 4-year terms for their lower house, all elected in non-staggered terms.

ACTION TAKEN: Passed Assembly; denied passage on Senate floor.

ACA 17 (Ketchum) Public Meetings (Companion AB 103)

SUMMARY: Provides that all meetings of Assembly and Senate, their committees, and subcommittees shall be open to the public except as specified by the Legislature.

Present law provides for open meetings of local agencies, some state agencies, and the Regents of the University of California.

ACTION TAKEN: Passed Assembly and failed in the Senate Governmental Organization Committee.

LOCAL GOVERNMENT

ACA 53 (Quimby) Residency Requirement for Local Employees (Companion AB 1935)

SUMMARY: Grants the Legislature the power to prohibit charter cities or charter counties from imposing a residency requirement upon its employees as a qualification for employment.

A constitutional amendment is necessary to make the companion, AB 1935, applicable to charter cities and counties because chartered counties and city's laws supersede general laws as to matter which is competent for them to provide. Employment qualifications have been ruled such a matter. Thus for the Legislature to override such local control a constitutional amendment is necessary.

ACTION TAKEN: Constitutional amendment was held in Assembly Constitutional Amendments Committee. Assembly Bill 1935 passed the Assembly, but was refused passage on the Senate floor.

ACA 76 (Brathwaite) Community Redevelopment - State Credit
(Companion AB 2947)

SUMMARY: Would empower the Legislature to provide for a guarantee by the State, or by a taxing agency with the consent of its governing body, of the payment of debt incurred by a redevelopment agency.

Companion AB 2947: Creates a special fund in the State Treasury titled State Redevelopment Bond Insurance Fund to be administered by the Director of Housing and Community Development. The purpose of the fund is to insure tax allocation bonds issued by local redevelopment agencies to finance community redevelopment projects. The bill also sets forth standards for insurance of such bonds.

This package in essence makes the State a "guarantor" of local redevelopment bonds by backing them up with the State's credit....accordingly bond purchaser's risk is minimized...increasing the marketability of the bonds.

ACTION TAKEN: Held in Assembly Urban Development and Housing Committee.

PROPERTY INSURANCE

ACA 32 (Miller) Catastrophe Compensation

SUMMARY: Grants the Legislature power to create a system of catastrophe compensation for loss of/or damage to improvements of personal property by reason of earthquake, flood, landslide, or tidal wave.

Generally speaking, insurance against these risks is either not available or available at a significant cost. In order for the Legislature to create a catastrophe compensation system, a constitutional amendment would be necessary so that such use of public funds would not be regarded as a gift of public monies, now prohibited by the State Constitution.

ACTION TAKEN: Passed Assembly; denied passage on Senate floor.

STATE CIVIL SERVICE

ACA 1 (Bagley) Positions Exempt from Civil Service

EFFECT OF ACA: Adds to the list of existing exemptions the following number of new appointees or employees:

	<u>New</u>	<u>Existing</u>	<u>Total</u>
Attorney General	2	8	10
Superintendent of Public Instruction	6	6	12
Controller	4	2	6
Secretary of State	4	2	6
Treasurer	4	2	6
Total	20	20	40

ACTION TAKEN: Failed in Senate Governmental Organization Committee.

TAXATION

ACA 13 (McCarthy) Taxation (2/3 vote of the Legislature)

SUMMARY: Reduces from 2/3 to simple majority the vote needed in the Legislature to impose bank and corporation taxes (presently a net income tax) or to change the tax rate on insurers (presently levied on gross premiums).

Would conform California law to federal government which enacts all of its tax legislation by simple majority vote of Congress.

Would also conform the vote needed in the Legislature to impose the bank and corporation taxes to that of other tax votes. Individuals and unincorporated business are taxed by simple majority vote; i.e., the personal income tax and sales tax require a simple majority vote.

ACTION TAKEN: Held in Assembly Constitutional Amendments Committee.

ACA 41 (Sieroty) Taxation of Insurance Companies
(Companion AB 1048)

SUMMARY: Phases out the deduction of property tax of insurance companies principal office allowed against the insurance premiums tax.

Presently insurance companies pay local property tax in the same manner as any other property owner. However, they are allowed to offset or deduct a certain amount of this tax from their state gross premiums tax. If enacted, the State's General Fund would increase by an estimated \$3.5 million in 1973-74 and increase thereafter.

According to the State Board of Equalization, twelve California based insurance companies paid no state taxes in 1970 due to home office deductions offsetting gross premiums tax.

ACTION TAKEN: Died on the Assembly Third Reading file.

ACA 84 (Wilson) Assessment of Damaged or Destroyed Property
(Companion AB 3076)

SUMMARY: Would allow Legislature to provide for assessment or reassessment of damaged or destroyed property in any disaster area regardless of whether the Governor proclaimed such an area as a disaster area.

Existing provision allows tax relief contingent upon (1) local taxing agency wanting to place damaged property within disaster area (wanting to provide for reassessment) and (2) the Governor declaring such an area in a state of disaster.

ACTION TAKEN: Died on Assembly inactive file.

ACA 44 (Gonsalves) Single Family Dwelling Assessments

SUMMARY: Authorizes Legislature to prohibit by law the assessment of certain lands zoned for single-family dwellings at any greater value than would reflect its use. Would apply only to owner occupied single-family dwellings on lien date and would include amount of property required for convenient use and occupation of dwelling.

ACTION TAKEN: Passed both houses of the Legislature and was enrolled as Chapter 261. This measure will appear on the 1972 June ballot.

TRANSPORTATION

ACA 16 (Foran) Highway Users Tax Fund

SUMMARY: Broadens purposes for which highway user taxes may be expended to include:

1. Expenditures for public transit systems, excluding operating costs.
2. Costs incurred in providing for control of environmental pollution caused by motor vehicles.
3. The payment of principal and interest on voter approved bonds issued for any of the above purposes.

Existing Constitutional language now restricts the use of revenues derived from state imposed taxes solely for the construction and maintenance of public highways, costs of traffic-related law enforcement, and costs of highway user tax collection. The users tax fund contains revenues totaling \$982 million derived from gasoline and fuel taxes (\$647 million); vehicle registration fee, driver's license fees, and commercial vehicle weight fees (\$311 million);

and motor vehicle transportation license tax (\$25 million). The fund contains revenues equal to almost one-fifth of the state's total revenues.

ACTION TAKEN: Passed Assembly; refused passage on Senate floor.

VOTING RIGHTS

SCA 1 (Moscone) Voting Age, Residency, and Literacy

SUMMARY: Would conform California Constitution to recent changes in the law by (1) lowering the voting age to 18; and, (2) granting the Legislature the power to define residence, prescribe residence, and provide for registration. Also would eliminate the literacy requirement and 90-day waiting period for naturalized citizens to vote.

ACTION TAKEN: Passed Senate and two Assembly Committees. Denied passage on Assembly floor.

ACA 7 (Brown) Voting Age

SUMMARY: Reduced the minimum voting age from 21 to 18 years to allow an estimated 1,084,000 persons aged 18 to 21 to presumably qualify to vote.

ACTION TAKEN: Passed Assembly and Senate Elections and Reapportionment Committee and was moved to the Senate inactive file upon certification of the 26th Amendment to the U.S. Constitution.

*ACA 21 (Roberti) Naturalized Citizens (AB 210, Chapter 1760)

SUMMARY: Eliminated for naturalized citizens the 90-day waiting period prior to election. According to figures reported by the United States Immigration Offices, there are about 22,000 persons who become naturalized citizens in California each year and are otherwise presumably qualified to vote.

ACTION TAKEN: Passed both houses and enrolled as Chapter 272 by Secretary of State. Will appear on 1972 June primary ballot.

ACA 65 (Sieroty) Ex-felon Voting

SUMMARY: Would remove the current constitutional provisions prohibiting ex-felons from voting and empowers the Legislature to prohibit improper practices affecting elections and disqualifies as electors those convicted of designated felonies.

ACTION TAKEN: Died on Assembly third reading file at the adjournment of the 1971 Regular Session.

SUMMARY OF CONSTITUTIONAL AMENDMENTS

HEARD IN ASSEMBLY CONSTITUTIONAL AMENDMENTS COMMITTEE

ACA = Assembly Constitutional Amendment
 AB = Assembly Bill
 SCA = Senate Constitutional Amendment
 SB = Senate Bill

<u>ACTION ON BILLS</u>	<u>HOUSE OF ORIGIN</u>	<u>NUMBER</u>
Introduced in 1971 Regular Session	SCA 's	65
	ACA 's	<u>84</u>
	TOTAL	149
Heard in Assembly Constitutional Amendments Committee	SCA 's	5
	Companion SB 's	1
	ACA 's	27
	Companion AB 's	<u>11</u>
	TOTAL	44
Passed out of Committee	SCA 's	4
	Companion SB 's	1
	ACA 's	19
	Companion AB 's	<u>6</u>
	TOTAL	30
Held in Committee	SCA 's	1
	Companion SB 's	0
	ACA 's	8
	Companion AB 's	<u>5</u>
	TOTAL	14
Recorded with Secretary of State	SCA 's	3
	Companion SB 's	1
	ACA 's	2
	Companion AB 's	<u>1</u>
	TOTAL	7

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BROWN, Willie L., Jr.	ACA 7	13
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COLLIER, John L.	ACA 37	4
FORAN, John Francis	ACA 16	12
GARCIA, Alex P.	ACA 66	3
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