

2016

SUSPENSION OF LEGISLATORS.
LEGISLATIVE CONSTITUTIONAL
AMENDMENT.

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PROPOSITION **50** **SUSPENSION OF LEGISLATORS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Authorizes each house of Legislature to suspend one of its Members by two-thirds vote, and to require Member to forfeit salary and benefits while suspended.
- Prohibits suspended Member from exercising rights, privileges, duties, or powers of office, or using any legislative resources.
- Provides suspension may end on specified

date, or upon two-thirds vote of Member's house.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- No effect on state spending in most years. Minor state savings in some years.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 17 (PROPOSITION 50)
(RESOLUTION CHAPTER 127, STATUTES OF 2014)

Senate:	Ayes 31	Noes 3
Assembly:	Ayes 73	Noes 2

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

The California Legislature. Each year the Legislature votes to approve or reject proposed laws and passes a state budget. Voters elect 120 members to the two houses of the Legislature: 40 Senators and 80 Assembly Members. An independent commission—not the Legislature—sets salaries and benefits for legislators. Currently, the state pays most legislators a salary of about \$100,000 each year. Legislators also receive health, dental, and vision benefits. They do not receive state retirement benefits.

Disciplining Legislators. When legislators are accused of wrongdoing, there are several ways that they can be disciplined. For example, they can be prosecuted and sentenced by a court if they violate criminal laws, or voters can attempt to remove them from office through a

recall process. In addition, each house of the Legislature traditionally has had the ability to discipline its own members. Except for expulsion (described below), a majority vote of the house is required to take disciplinary actions. These disciplinary actions include the following:

- **Expulsion.** Expelling a legislator—ending his or her term of office—is the most severe disciplinary action available to the Assembly or Senate. The last time this happened was in 1905, when four Senators were found by the Senate to be taking bribes. After a legislator is expelled, he or she is no longer a Senator or Assembly Member. His or her state salary and benefits stop. Under the State Constitution, two-thirds of the Assembly or Senate must vote to expel one of its

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

members. This is the only disciplinary action specifically mentioned in the State Constitution.

- **Suspension.** Each house of the Legislature can also suspend one of its members. For example, in 2014 three Senators were accused of felonies and the Senate subsequently voted to suspend them. During the time they were suspended, the three Senators did not vote on bills or take other legislative actions. They remained in office, however, and kept receiving state salaries and benefits until they left the Senate. (Later in 2014, each of the three either resigned or left the Legislature at the scheduled end of their Senate terms.) This was the first time in history that California legislators had been suspended.
- **Other Disciplinary Actions.** In addition to expulsion and suspension, each house of the Legislature can take other, less severe disciplinary actions. These include censure (publicly criticizing a legislator).

PROPOSAL

Constitutional Provisions About Suspensions.

This measure amends the State Constitution to add new provisions regarding the suspension of legislators. The provisions address the following issues:

- **Higher Vote Requirement to Suspend Legislators.** Currently, the Assembly or Senate can suspend one of its members with a majority vote. This measure requires a two-thirds vote of the Assembly or Senate in order to suspend one of its members.

- **Allows Suspending Legislators Without Pay and Benefits.** Currently, a suspended legislator keeps receiving a state salary and benefits. This measure allows the Assembly or Senate to stop a legislator’s pay and benefits during all or part of a suspension.
- **Other Requirements for Suspending Legislators.** This measure also (1) prohibits a suspended legislator from voting on laws or taking other actions as a legislator during a suspension, (2) requires the house to describe the reasons for a suspension, and (3) sets rules for when a suspension would end (either on a specific date set by the Assembly or Senate or after two-thirds of the Assembly or Senate votes to end the suspension).

FISCAL EFFECTS

Only in rare cases have California legislators been expelled or suspended. If such disciplinary penalties against legislators continue to be rare, this measure would have no effect on state or local finances in most years. In any future year when the Senate or Assembly suspended a legislator, this measure could lower the Legislature’s compensation costs, resulting in minor state savings.

Visit <http://www.sos.ca.gov/measure-contributions> for a list of committees primarily formed to support or oppose this measure.

Visit <http://www.fppc.ca.gov/transparency/top-contributors/june-2016-primary-election.html> to access the committee’s top 10 contributors.

★ ARGUMENT IN FAVOR OF PROPOSITION 50 ★

VOTE YES ON PROPOSITION 50—ALLOW THE LEGISLATURE TO SUSPEND MEMBERS WITHOUT PAY

Proposition 50 would amend the state Constitution to give the California Legislature clear authority to suspend members of the Senate or the Assembly without pay.

The measure is a simple and straightforward way for lawmakers to hold their own colleagues accountable for breaching the public's trust.

Currently, the California Constitution does not make it clear that the Legislature can suspend its members without pay. This issue came to light in 2014 when three state senators—all charged with criminal offenses—were suspended by a resolution of the Senate.

But those members continued to receive their salaries—more than \$95,000 a year—because it was not clear that the Senate had the authority to suspend their pay, as well.

The incident frustrated lawmakers who wanted to hold their own members accountable, and angered the public, which saw it as another example of how lawmakers are shielded from the consequences of their own actions and play by a different set of rules than everyone else.

"It's an aggravating situation that allows full pay for no work," opined the *San Francisco Chronicle*, urging lawmakers to fix the loophole.

The Legislature took it upon themselves to do just that. Lawmakers wrote and passed—overwhelmingly and with

strong bipartisan support—this constitutional amendment and placed it before voters for their approval.

The constitutional amendment would require the Assembly or the Senate to pass a resolution declaring why the member is being suspended. And to guard against political misuse, the resolution would require the higher threshold of a two-thirds vote for approval.

The National Conference of State Legislatures believes the power to discipline and expel members is inherent to a legislative body. That power has long been a staple of American democracy. It is common practice in most states.

The California Legislature has the power to expel members, and it should have the authority to suspend them without pay should the circumstances warrant.

Californians want and deserve a government that is worthy of their trust. Voters have passed many political reforms in the last decade to improve the governance in California, but more needs to be done to restore the public trust.

Proposition 50 is a commonsense step that would give lawmakers the authority to police their own, which is the right next step to holding all lawmakers accountable for serving the public interest.

That's why fair-minded Californians support Proposition 50.

HELEN HUTCHISON, President,
League of Women Voters of California
JAMES P. MAYER, President/CEO,
California Forward

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 50 ★

Why did the legislature vote to add Prop. 50 to the ballot?

Because Prop. 50 gives legislative leadership options NOT TO EXPEL fellow Assembly members and Senators who have been indicted or convicted of felony charges.

Prop. 50 isn't necessary because the Constitution already allows Assembly members and Senators who have been indicted or convicted of felony charges to be removed from office by expelling them.

Instead, Prop. 50 allows those in the legislature who have been indicted or convicted to be suspended WITH or without pay and it robs constituents of their representation. For many Californians, politicians are already allowed to serve in office for too long. Allowing them to continue in office after criminal behavior under Prop. 50 is wrong!

If you believe that Assembly members and Senators should not be above the law, please vote NO and send the clear message: No more special privileges for Assembly members and Senators indicted or convicted of felonies.

Californians deserve honest representatives serving them—NOT indicted or convicted legislators who have been suspended from their duties yet remain in office, which Prop. 50 allows.

Vote No on Prop. 50—Stop the corruption!

JON FLEISCHMAN, President,
California Term Limits
RUTH WEISS, San Diego County Coordinator,
California Election Integrity Project

★ ARGUMENT AGAINST PROPOSITION 50 ★

Proposition 50 is a scam brought to you by those that would turn a blind eye to a culture of corruption in our State Capitol! Voters should oppose this measure because:

It perpetuates a culture of corruption in the State Capitol
 It creates taxation without representation

Capitol insiders can use it to stifle political opposition
PERPETUATES A CULTURE OF CORRUPTION IN THE STATE CAPITOL

In 2014 when this measure was put on the ballot, nearly one of every ten California State Senators were either convicted or under indictment on multiple felony criminal counts including perjury, bribery and even gun-running. While this was going on, the author of Proposition 50, then the President Pro-Tem of the State Senate, refused to consider expelling these scoundrels from their offices of public trust—even after one of them was convicted by a jury!

Headlines in the news included:

“Attempt to Expel Convicted State Senator Derailed”—*Capital Public Radio*, 2/27/14

“Wright Sentencing Delayed; Senators Refuse to Expel Convicted Democrat”—*Breitbart News Network*, 7/8/14

Prop. 50 is designed to make you feel like the Sacramento political class actually wants to take a tough position to root out corruption. What they are really doing is hiding from you the fact that they would not make the tough decision to expel a convicted felon—their buddy.

TAXATION WITHOUT REPRESENTATION

Prop. 50 also denies millions of Californians their basic rights. It imposes taxation without representation. When a legislator is “suspended” instead of expelled, that means that the citizens in that district has no one representing their interests in the State Legislature. It means no election can take place to replace that bad actor, because he or she still “occupies” the office.

CAPITOL INSIDERS CAN USE PROP. 50 TO STIFLE POLITICAL OPPOSITION

Perhaps the most disturbing part of this measure is that it places into the state constitution a permanent means by which the majority can stifle minority opinion in the legislature. It is not hard to see where if you are a vocal member of the Senate or Assembly, on an issue that is not popular with your colleagues that you could have to face the reality that they could vote to suspend—to take away your voice and your vote in the legislature!

VOTE NO ON PROP. 50!

Visit: Stopprop50.com

JOEL ANDERSON, Senator,
 38th District

BRIAN JONES, Assembly Member,
 71st District

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 50 ★

This measure would give lawmakers the authority needed to discipline fellow Assembly Members and Senators—taking into consideration the nature of the allegation and other circumstances.

In severe cases, the Assembly and Senate already have the authority to expel a member. But expulsion is not always the just response. Even when a lawmaker is accused of a crime, given the presumption of innocence, it may not be appropriate to expel that person until all the facts are known and the case resolved.

In many such instances, lawmakers need the authority to respond in a reasonable and measured way—to do something short of expelling the member from the Legislature and something more than allowing that member to sit home and collect a taxpayer-funded paycheck.

Prop. 50 gives the Assembly or Senate the ability to suspend a member—and suspend the member’s pay.

The proposition sets a high bar to prevent lawmakers from unjustly punishing each other. It requires the house to publicly declare the reason for its action, and the resolution must be approved by a two-thirds vote—never easy and almost always requiring bipartisan support.

The measure does not inoculate the Legislature or lawmakers from corrupting influences, and more needs to be done to encourage ethical behavior, increase transparency, investigate complaints and enforce the law.

Prop. 50 gives lawmakers one more way to respond to ethical breaches by making it clear that when the circumstances warrant, lawmakers can be suspended without pay.

JAMES P. MAYER, President/CEO,
 California Forward

HELEN HUTCHISON, President,
 League of Women Voters of California

PROPOSITION 50

This amendment proposed by Senate Constitutional Amendment 17 of the 2013–2014 Regular Session (Resolution Chapter 127, Statutes of 2014) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO SECTION 5 OF ARTICLE IV

That Section 5 of Article IV thereof is amended to read:

SEC. 5. (a) (1) Each house of the Legislature shall judge the qualifications and elections of its Members and, by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring, may expel a Member.

(2) (A) *Each house may suspend a Member by motion or resolution adopted by rollcall vote entered in the journal, two-thirds of the membership concurring. The motion or resolution shall contain findings and declarations setting forth the basis for the suspension. Notwithstanding any other provision of this Constitution, the house may deem the salary and benefits of the Member to be forfeited for all or part of the period of the suspension by express provision of the motion or resolution.*

(B) *A Member suspended pursuant to this paragraph shall not exercise any of the rights, privileges, duties, or powers of his or her office, or utilize any resources of the Legislature, during the period the suspension is in effect.*

(C) *The suspension of a Member pursuant to this paragraph shall remain in effect until the date specified in the motion or resolution or, if no date is specified, the date a subsequent motion or resolution terminating the suspension is adopted by rollcall vote entered in the journal, two-thirds of the membership of the house concurring.*

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

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

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of ~~this article~~, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, “public generally” includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers’ Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

(e) The Legislature shall enact laws that prohibit a Member of the Legislature whose term of office commences on or after December 3, 1990, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

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