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VACANCIES IN SPECIFIED CONSTITUTIONAL OFFICES.

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2 **VACANCIES IN SPECIFIED CONSTITUTIONAL OFFICES.** Legislative Constitutional Amendment. Provides Supreme Court has exclusive jurisdiction to determine questions of vacancy in offices of Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, and Superintendent of Public Instruction and authority to raise such questions vested in body provided by statute.

YES

NO

(For Full Text of Measure, See Page 4, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to give the State Supreme Court exclusive jurisdiction to determine all questions of vacancy in the office of Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction, and to provide that the authority to raise questions of vacancy in those offices is vested exclusively in a body to be provided for by statute.

A "No" vote is a vote to reject this measure.

For further details, see below.

Detailed Analysis by the Legislative Counsel

This measure would amend Section 11 of Article V of the State Constitution, which provides for the manner of selection and terms of office of the Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer, and Section 2 of Article IX of the Constitution, which provides for the manner of selection and term of office of the Superintendent of Public Instruction. It would provide that the authority to resolve all questions concerning a vacancy in any of those offices is vested exclusively in the State Supreme Court and would provide that the authority to raise any questions concerning such a vacancy is vested in a body to be provided for by statute.

Argument in Favor of Proposition 2

Proposition 2 closes a long standing gap in the California law regarding the disability of statewide elected officers. The present law fails to provide for replacing these officers if they are temporarily disabled by illness or accident. Proposition 2 solves this problem by providing the constitutional authority necessary for a systematic court procedure through which the disabled officer can be temporarily replaced. In addition, companion statutes, already passed by the Legislature, will enact the required procedures if this measure is approved by the people.

This measure covers six important statewide offices: Lieutenant Governor, Attorney Gen-

eral, Secretary of State, Treasurer, Controller and Superintendent of Public Instruction.

If one of these officers is so disabled by illness or accident that he has failed to perform the duties of his office, Proposition 2 authorizes a special Commission on Constitutional Officers to petition the Supreme Court for a decision to that effect. Should the Supreme Court decide that the person is so disabled, then the Governor would be able to appoint an "acting" officer to temporarily perform the duties of the office. When, and if, the disabled person recuperates he may use the same procedure of petition to the Supreme Court to be reinstated in his office.

In order to protect the disabled officer from abuse of these provisions, the Commission and court are required to act if the officer requests reinstatement. In addition, the Commission and Supreme Court are given exclusive authority over the case in order to protect elected officers from harassment suits.

This orderly court procedure follows traditional provisions already found in the Constitution. The Commission, for example, is modeled after an existing Commission on the Governorship and has the same members: the Senate President pro Tem, Speaker of the Assembly, President of the University of California, Chancellor of the State Colleges and the Director of Finance. Similarly, the Supreme Court's authority in this measure parallels an existing constitutional provision relating to the Governorship.

Furthermore, the provisions for court review and reinstatement provide a double check on arbitrary action by a governor while, at the same time, allowing temporary replacement of disabled officers in order to guarantee that public responsibilities are fulfilled.

I urge a "YES" vote on Proposition 2 to close an unnecessary and dangerous loophole in our present law.

PAUL PRIOLO,
Assemblyman,
60th Assembly District

STEPHEN TEALE,
State Senator, 3rd District

Argument Against Proposition 2

Proposition 2 could facilitate unwarranted harassment of constitutional officers or

result in unjustified removal from office of popularly elected constitutional officers.

The functions of constitutional officers, other than the Governor, are largely ministerial in nature. They seldom require policy decisions. Civil Service and appointive deputies have for this reason in the past been able to keep their offices functioning in the absence of an elected official. Proposition 2 therefore purports to fill a non-existent need.

Because the broad language is subject to implementation by the Legislature, it opens wide the door to irresponsible and undemocratic attempts to dislodge as "incapacitated", elected officials who have the strength

and integrity to advocate the unpopular or to challenge tradition. Only the people should be allowed to remove from office a candidate whom they have elected.

The failure of the Constitution Revision Commission to endorse Proposition 2, or to offer a similar proposal may be interpreted as validating my belief that this proposal constitutes unnecessary and dangerous tampering with a viable and democratic Constitution which serves the people well. I, therefore, urge a "No" vote on Proposition 2.

DAVID A. ROBERTI
Member of the Assembly,
48th District

3 STATE BUDGET. Legislative Constitutional Amendment. Commencing in 1972, requires Governor to submit budget to Legislature within first ten days, rather than first thirty days, of each regular session and requires Legislature to pass budget by June 15th of each year.

YES	
NO	

(For Full Text of Measure, See Page 4, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to require the Governor to submit the state budget to the Legislature within the first 10 days, rather than the first 30 days, of each regular session, commencing with the 1972 Regular Session; and to require the Legislature to pass the Budget Bill by June 15 of each year.

A "No" vote is a vote against such requirements.

For further details, see below.

Detailed Analysis by the Legislative Counsel

The State Constitution now provides that within the first 30 days of each regular session, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements of recommended state expenditures and estimated state revenues. This measure would change the 30-day period to 10 days.

This measure would, in addition, require the Legislature to pass the budget bill by June 15 of each year.

Argument in Favor of Proposition 3

This past year, as in 1969, saw the government of this state teeter on the edge of fiscal chaos, occasioned solely by the failure of the Legislature to enact the budget for the beginning fiscal year by the start of that year. While the state has been fortunate that there was not a fiscal catastrophe on either occasion, there is no guarantee that the events

of the past two years will not be repeated again and again, until at some time in the future there is such a catastrophe.

The budgetary process is essentially a race against time, against the deadline of the start of the fiscal year. Although the time limit never changes, the processes of government, the problems to be solved, and programs to solve these problems become more complex and the sums appropriated to fund the multitude of necessary programs increase. Faced with such restrictions, the only alternatives the Legislature has is to give either less attention to individual items of the budget or go past the deadline for enacting the budget, or both. Whether the Legislature is forced to gloss over the budget, thereby necessarily delegating a vast responsibility to state officers and employees not directly responsible to the voters, or run past the deadline for enactment of the budget, the people are the ultimate losers, either in higher taxes, or uneconomical government, or both.

It is a basic economic fact that in times of high taxes, when there are numerous competing demands for each available tax dollar, more time, more effort, and more attention to the fiscal affairs of government is needed, not less.

This measure would give that time to the Legislature, the time to evaluate and control the money spent by state government and at the same time, require the budget to be enacted before the start of the fiscal year.

By requiring the budget to be submitted within the first 10 days of the legislative session instead of the first 30 days, the Legislature would gain almost three weeks time in which to better evaluate the budget.

2 **VACANCIES IN SPECIFIED CONSTITUTIONAL OFFICES.** Legislative Constitutional Amendment. Provides Supreme Court has exclusive jurisdiction to determine questions of vacancy in offices of Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, and Superintendent of Public Instruction and authority to raise such questions vested in body provided by statute.

YES

NO

(This amendment proposed by Assembly Constitutional Amendment No. 43, 1970 Regular Session, expressly amends existing sections of the Constitution; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLES V AND IX

First—That Section 11 of Article V is amended to read:

Sec. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor.

The Supreme Court has exclusive jurisdiction to determine all questions of vacancy in

the office of Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer

Authority to raise questions of vacancy is vested exclusively in a body provided for by statute.

Second—That Section 2 of Article IX is amended to read:

Sec. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. He shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

The Supreme Court has exclusive jurisdiction to determine all questions of vacancy in the office of Superintendent of Public Instruction.

Authority to raise questions of vacancy is vested exclusively in a body provided for by statute.

3 **STATE BUDGET.** Legislative Constitutional Amendment. Commencing in 1972, requires Governor to submit budget to Legislature within first ten days, rather than first thirty days, of each regular session and requires Legislature to pass budget by June 15th of each year.

YES

NO

(This amendment proposed by Assembly Constitutional Amendment No. 9, 1970 Regular Session, expressly amends an existing section of the Constitution and adds a new section thereto; therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **INSERTED** or **ADDED** are printed in **BOLDFACE TYPE**.)

PROPOSED AMENDMENTS TO ARTICLE IV

First—That subdivision (a) of Section 12 of Article IV be amended to read:

Sec. 12. (a) Within the first 30 10 days of each regular session, commencing with the 1972 Regular Session, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements of recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, he shall recommend the sources from which the additional revenues should be provided.*

Second—That subdivision (c) of Section 12 of Article IV be amended to read:

(c) The budget shall be accompanied by a

budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the chairmen of the committees that consider appropriations. Commencing in 1972, the Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, neither house may pass any other appropriation bill, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

And be it further resolved, That if Assembly Constitutional Amendment No. 6 of the 1969 Regular Session is adopted by the people, as follows:

First—That Section 12.1 be added to Article IV, to read:

Sec. 12.1. Within the first 30 calendar days of each regular session, the chairman of the committee of each house charged with

*Reference to another proposed amendment to subd. (a) of Sec. 12, Art. IV, which was to take effect in the event that Assembly Constitutional Amendment No. 2 adopted by the people, has not been included since Assembly Constitutional Amendment No. 2 was not submitted to the voters by the Legislature.