

RESOLUTION 5-11-2006

DIGEST

Term Limits: Reform

Amends Article IV, Section 2 of the California Constitution to require legislators to sit out the length of a full term in the Senate before being eligible to run for the Legislature.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Article IV, Section 2 of the California Constitution to require legislators to sit out the length of a full term in the Senate before being eligible to run for the Legislature. This resolution should be approved in principle because it would strike an appropriate balance between a lifetime ban and unlimited consecutive terms.

When Proposition 140 was enacted in 1996, it was intended to prevent individual legislators from accumulating disproportionate amounts of power simply by reason of seniority. The measure contained a lifetime ban after a legislator had served the specified number of terms, regardless of whether they were served consecutively. The lifetime ban ensures that capable legislators will have to turn over their seats quickly, and that power will be concentrated instead in non-elected lobbyists and legislative staff.

It is desirable to provide some hedge against the accrual of power by career legislators. However, a flat-out lifetime ban has proven unwise. In fact, since the enactment of Proposition 140, several other states have declined to impose lifetime bans in connection with term limits, choosing instead to impose limits on the number of consecutive terms that a legislator can serve. (See, e.g., Ariz. Const., art. IV, pt. 2, § 21; Colo. Const., art. V, § 3; Mont. Const., art. IV, § 8; Ohio Const., art. II, § 2; S.D. Const., art. III, § 6.) That alternative is a wise balance between what the voters intended and what the realities of legislative dynamics have since proven.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend the California Constitution, Article IV, Section 2, to read as follows:

- 1 Article IV, Section 2:
- 2 (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to
- 3 begin every 2 years. No Senator may serve more than 2 consecutive terms.
- 4 The Assembly has a membership of 80 members elected for 2-year terms. No

5 member of the Assembly may serve more than 3 consecutive terms.

6 No person who has served 14 consecutive years in the Legislature shall be again
7 eligible for membership in either the Senate or the Assembly until the passage of four years
8 from the completion of the last term to which that person was elected.

9 Their terms shall commence on the first Monday in December next following their
10 election.

11 (b) Election of members of the Assembly shall on the first Tuesday after the first
12 Monday in November of even-numbered years unless otherwise prescribed by the
13 Legislature. Senators shall be elected at the same time and places as members of the
14 Assembly.

15 (c) A person is ineligible to be a member of the Legislature unless the person is an
16 elector and has been a resident of the legislative district for one year, and a citizen of the
17 United States and a resident of California for 3 years, immediately preceding the election.

18 (d) When a vacancy occurs in the Legislature the Governor immediately shall call
19 an election to fill the vacancy.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS

Existing Law: California imposes a lifetime ban on any person who serves three terms in the Assembly or two terms in the Senate from ever serving in that body again.

This Resolution: Term limits were enacted to break the hold of incumbents on re-election. This proposal requires legislators to sit out the length of a full term in the Senate before being eligible to run for the Legislature.

The Problem: No other state goes that far, and it is likely California voters did not intend this result when they enacted term limits.. As a result, there is a constant turnover in the makeup of the Legislature and a loss of institutional memory. Governance of the largest state in the nation is continuously placed in the hands of amateurs.

IMPACT STATEMENT

This resolution does not affect other laws, statutes or rules of procedure.

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RESPONSIBLE FLOOR DELEGATE: Howard Wayne

COUNTERARGUMENT

BEVERLY HILLS BAR ASSOCIATION

The Beverly Hills Bar Association (BHBA) agrees that it is time to amend California Constitution, Article IV, Section 2, regarding term limits for California State Senators and Assembly members.

The BHBA opposes Resolution 05-11-06, which would limit Senators to two consecutive terms (8 years) and Assembly members to three consecutive terms (six years), because this resolution does not address the issues created by a lack of continuity in the Legislature's membership under current law. Resolution 05-13-06 or Resolution 05-14-06 (both submitted by the BHBA) would better address the problems associated with the current term limits.

It is likely that California voters who supported term limits did not foresee the problems with the legislative process that have arisen as a result of the current constitutional requirements. These problems include:

- loss of elected officials' accountability to their constituents
- loss of institutional memory
- the absence of any incentive and/or ability to legislate with a view to the future in terms of both vision and the consequences of proposed legislation
- insufficient time to develop leaders in the Assembly and Senate
- reduced legislative oversight of the executive branch

Term limits also deprive constituents of their ability to re-elect officials who retain their confidence and support.

BHBA Resolution 05-13-06 would extend term limits for the Senate to three consecutive terms (12 years) and for the Assembly to six consecutive terms (12 years). Permitting elected officials to serve for longer periods of time will alleviate, if not eliminate, the shortcomings noted above.

BHBA Resolution 05-14-06 would abolish term limits for the Senate and Assembly, thus permitting state legislative incumbents to run for re-election without any limitation on their term of service as they did before California voters approved Proposition 130, the Political Reform Act of 1990.1 Permitting elected officials to serve without any term limits will allow constituents to re-elect officials who retain their confidence and support.