

TO: TOWN COUNCIL

FROM: TOWN MANAGER

RE: CONSIDER RESOLUTION SUPPORTING A STATE CONSTITUTIONAL CONVENTION

ISSUE

Council is asked to consider supporting a call for a State constitutional convention to reform the budget process; the election and initiative process, restore the balance of power between the state and local governments; and create new systems to improve government effectiveness.

RECOMMENDATION

Decide whether to approve a resolution supporting a state constitutional convention.

MONEY

There are no funds being requested. It is unknown if a constitutional convention would cost local government money.

CEQA

There are no CEQA issues in conducting a constitutional convention. What is agreed on may require CEQA review if there are effects on the environment but those issues would be matters that the State would have to address.

DISCUSSION

Council Member Ucovich received information from a group, Repair California, asking for support in calling for a State constitutional convention to address reform in four areas: budget process; election and initiative process; restoring the balance of power between the state and local governments; and creating new systems to improve government effectiveness. See attached information for details.

Following is a draft resolution provided by the group indicating support for calling a constitutional convention.

Town of Loomis

RESOLUTION NO. ____

A RESOLUTION SUPPORTING REPAIR CALIFORNIA'S DUAL BALLOT MEASURES CONVENING A LIMITED STATE CONSTITUTIONAL CONVENTION

WHEREAS, Repair California, a non-partisan, statewide coalition of individuals and organizations, advocates for convening a limited Constitutional Convention to repair California's governance; and

WHEREAS, Repair California is submitting two ballot measures which will constitute the first systematic reform of the guiding document of our great state since 1879; and

WHEREAS, the first ballot measure will amend the state constitution to allow for the electorate to call a constitutional convention; and

WHEREAS, the second measure will call and convene a limited state constitutional convention focused on issues of governance; and

WHEREAS, the judicially-enforceable, limited Constitutional Convention will focus solely on issues of governance, defined as elections, the budget process, revenue distribution, and restoring the balance of power between the state and local governments; and

WHEREAS, direct tax or fee increases will be explicitly barred from consideration, as will social issues such as marriage, guns, abortion, and prayer-in-school, allowing the Convention to focus on critical governance reforms; and

WHEREAS, amended more than 500 times, the Constitution of the state of California is currently the third largest such document in the world, behind those only of Alabama and India, at over 75,000 words; and

WHEREAS, the Constitution has been described as "the perfect example of what a constitution ought *not* to be" [Wilson and Ebbert, California's Legislature]; and

WHEREAS, the lack of a functioning system of state governance – a system dictated by the Constitution – is a major factor in the legislative and budgetary gridlock affecting the government of our state; and

WHEREAS, the legislative and budgetary gridlock in our state greatly harms the ability of local governments to properly and effectively budget, finance and govern for the needs of the people; and

WHEREAS, the legislative and budgetary gridlock in our state and unfunded mandates dictated by the state's Constitution results in damaging borrowing or taking of funding from local government; and

WHEREAS, the legislative and budgetary gridlock in our state prevents needed action in policy areas beset by crisis, such as education, water, transportation, prisons, and the relationship between the state and local government; and

WHEREAS, some important measures in consideration for the November 2010 ballot would lock-in existing local funding in a broken system, but a Constitutional Convention could fix the system and restore the balance of power between the state and local government; and

WHEREAS, Sacramento has proven unable to reform itself, and hence local government and the people of the great state of California must bring reform to Sacramento;

NOW THEREFORE, the Loomis Town Council does resolve to support Repair California's call for a limited State Constitutional Convention.

Passed and Adopted this 10th day of November 2009, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAINED:

MAYOR

ATTEST:

APPROVED AS TO FORM:

City Clerk

Town Attorney

Perry Beck

From: Miguel Ucovich [ucovich@hotmail.com]
Sent: Monday, November 02, 2009 7:16 AM
To: Perry Beck
Subject: FW: Pass Resolution to Support Constitutional Convention Call?

Perry
Should we place this on council agenda?
Miguel

Subject: Pass Resolution to Support Constitutional Convention Call?
Date: Fri, 30 Oct 2009 14:40:35 -0700
From: AGonzalez@bayareacouncil.org
To: ucovich@hotmail.com

Council Member Ucovich,

This week, Repair California, a group of everyday Californians, reformers and advocacy groups turned in ballot language to call the first Constitutional Convention in California in more than 130 years. I would like to ask you to consider supporting a resolution in support of the call for a convention.

Here is link the first measures:
http://www.repaircalifornia.org/Docs/repair_california_prop_1.pdf

Here is a link to the second measure:
http://www.repaircalifornia.org/Docs/repair_california_prop_2.pdf

Citing a broken system of governance, the measures would call a limited Constitutional Convention to reform four areas of the constitution: the budget process; the election and initiative process; restoring the balance of power between the state and local governments; and, creating new systems to improve government effectiveness. The Convention is specifically prohibited from proposing tax increases or from considering changes to social issues such as marriage, abortion, gambling, affirmative action, freedom of the press, freedom of religion, immigration, or the death penalty. Voters will decide on calling the Convention on the November 2010 ballot, the Convention would be held in 2011 and its proposed reforms would require voter approval in one of the three scheduled statewide elections in 2012.

According to Joe Matthews - Journalist and Irvine senior fellow at the New America Foundation - "If you strongly believe that California's local governments need more power and discretion, you probably should get behind the constitutional convention."

Read more here:
<http://www.foxandhoundsdaily.com/blog/joe-mathews/5675-would-con-con-be-a-revolt-locals>

City officials will be involved in the selection of delegates to the convention. This process is outlined in section 8 of the ballot language. This section also limits the scope of the convention to issues governance, "including the relationship between the state and local governments, and the structure of the legislative and executive branches of government." Since city officials play such an important role in the selection of delegates and since the state's governmental dysfunction is debilitating to city governments we enthusiastically seek your support. Please help us by introducing a resolution in support of the proposed convention.

Alonso Gonzalez
RepairCalifornia.Org
(415) 946-8734

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11/2/2009

A RESOLUTION OF THE CITY
SUPPORTING REPAIR CALIFORNIA'S DUAL BALLOT MEASURES CONVENING A LIMITED STATE
CONSTITUTIONAL CONVENTION

WHEREAS, Repair California, a non-partisan, statewide coalition of individuals and organizations, advocates for convening a limited Constitutional Convention to repair California's governance; and

WHEREAS, Repair California is submitting two ballot measures which will constitute the first systematic reform of the guiding document of our great state since 1879; and

WHEREAS, the first ballot measure will amend the state constitution to allow for the electorate to call a constitutional convention; and

WHEREAS, the second measure will call and convene a limited state constitutional convention focused on issues of governance; and

WHEREAS, the judicially-enforceable, limited Constitutional Convention will focus solely on issues of governance, defined as elections, the budget process, revenue distribution, and restoring the balance of power between the state and local governments; and

WHEREAS, direct tax or fee increases will be explicitly barred from consideration, as will social issues such as marriage, guns, abortion, and prayer-in-school, allowing the Convention to focus on critical governance reforms; and

WHEREAS, amended more than 500 times, the Constitution of the state of California is currently the third largest such document in the world, behind those only of Alabama and India, at over 75,000 words; and

WHEREAS, the Constitution has been described as "the perfect example of what a constitution ought *not* to be" [Wilson and Ebbert, California's Legislature]; and

WHEREAS, the lack of a functioning system of state governance – a system dictated by the Constitution – is a major factor in the legislative and budgetary gridlock affecting the government of our state; and

WHEREAS, the legislative and budgetary gridlock in our state greatly harms the ability of local governments to properly and effectively budget, finance and govern for the needs of the people; and

WHEREAS, the legislative and budgetary gridlock in our state and unfunded mandates dictated by the state's Constitution results in damaging borrowing or taking of funding from local government; and

WHEREAS, the legislative and budgetary gridlock in our state prevents needed action in policy areas beset by crisis, such as education, water, transportation, prisons, and the relationship between the state and local government; and

WHEREAS, some important measures in consideration for the November 2010 ballot would lock-in existing local funding in a broken system, but a Constitutional Convention could fix the system and restore the balance of power between the state and local government; and

WHEREAS, Sacramento has proven unable to reform itself, and hence local government and the people of the great state of California must bring reform to Sacramento;

NOW THEREFORE BE IT RESOLVED, that by adoption of this Resolution, this City hereby supports Repair California's call for a limited State Constitutional Convention.

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Citizens' Constitutional Convention Act

Section 1. Title

This measure shall be named the "Citizens' Constitutional Convention Act."

Section 2. Findings and Declaration

The People of the State of California find and declare that:

1. The California Constitution should be a document that facilitates a functional government for the State, dedicated to the longstanding proposition that government must be responsive to the needs of its people.
2. State government is in a state of paralysis, caused by systemic problems in the governance structure of the State.
3. The current Constitution was drafted over one hundred years ago, and has been amended more than 500 times to a point where its original intent is no longer recognizable, and its implementation is no longer feasible.
4. The twenty-first century requires a twenty-first century constitution, one that allows for reform of the legislature in order to reduce the influence of special interest groups, provides for needed limits on budgeting and spending, ensures reduced bureaucracy, and restores the balance of power between the state and local governments.
5. There needs to be a constitutional convention to revise the Constitution in order to facilitate a functional government for our State.
6. The Constitution derives its power from the people and the people must be able to call for a convention to revise the Constitution. If the legislature will not act, the people shall.

Section 3. Purpose and Intent

The people enact this measure in order to allow the citizens of California to call for a constitutional convention. The people intend that this measure be effective so that the question of whether to call a constitutional convention may be decided at the same election as the one at which this measure is considered.

Section 4. Article 18, Section 2 of the California Constitution is amended to read:

Section 2. (a) The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6

months the Legislature shall provide for the convention. ~~Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable.~~

(b) The question of whether to call a convention to revise the Constitution may be placed on the ballot for any state-wide election by the same process set forth in Article 2, Section 8 for a statutory initiative measure, so long as no convention has convened within ten years of such an election.

(c) Whether submitted as set forth in paragraph (a) or (b), the question of whether to call a convention to revise the Constitution (1) may prescribe judicially enforceable limits on the areas of the Constitution to be considered for revision, and the manner in which the convention is to be provided for if a majority of voters vote yes on the question, (2) may authorize the convention to propose both a revision and a series of separate amendments to the Constitution; and (3) shall specify a fair method for selecting or electing citizens to be delegates to a constitutional convention.

Section 5. Severability

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provision or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable. In particular, the purpose of this Act is to permit the people to call for a convention to propose a revision or series of separate amendments to the Constitution; the severing of any measure found to be invalid shall be accomplished to further such purpose.

Section 6. Effective Date and Application

This measure, if passed, shall be deemed operative and in effect on the entire day of the election at which it is passed, and shall allow the people to consider the question of whether to call for a constitutional convention at the same election as the one at which the people vote on this measure.

Section 7. Conflicting Initiatives

Except as set forth below, in the event that this measure and another measure or measures relating to a Constitutional Convention shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the other measure shall be null and void. Notwithstanding the foregoing, another measure or measures that does not amend Article 18, section 2 of the Constitution but presents the question of whether to call a convention to revise the Constitution shall not be deemed to be in conflict with this measure.

The Call for a Citizens' Limited Constitutional Convention

Section 1. Title

This measure shall be named "The Call for a Citizens' Limited Constitutional Convention."

Section 2. Purpose and Intent

The State of California's governing system is profoundly dysfunctional and has become harmful to the people of this great State. The people of the State of California therefore deem it necessary to call a convention to revise or amend the Constitution of the State. The convention shall consider changes only to the areas of the Constitution set forth in this measure.

Section 3. Findings and Declarations

The people find and declare as follows:

1. The California Constitution should be a document that facilitates a functional government for the State, dedicated to the longstanding proposition that government must be responsive to the needs of its people.
2. State government is in a state of paralysis, caused by systemic problems in the governance structure of the State.
3. The current Constitution was drafted more than one hundred years ago, and has been amended more than 500 times. When the Constitution was first written, the State's population was only 800,000 residents. Now the State possesses more than 7,000 units of government and more than 38 million residents.
4. The twenty-first century requires an updated Constitution, one that allows for reform of the legislature in order to reduce the influence of special interest groups, provides for rational budgeting and spending, ensures efficient government, and restores the balance of power between the state and local governments.
5. The people of California should be involved in any effort to improve the Golden State, including involvement in determining the foundational values and needed improvements in their system of governance.
6. The people of the State therefore call for a limited constitutional convention to revise the Constitution in order to facilitate a functional government for our State.
7. California has become one of the most ethnically and culturally diverse societies that has ever existed in the history of humankind. The constitutional convention shall celebrate that diversity. Delegates will be selected and elected through open transparent procedures designed to result in the representation of California's diverse viewpoints, populations and values, including gender, age, geographic, ethnic, and cultural diversity. Discrimination against any person on the basis of race, ethnicity, religion, color, national origin, age, sex, familial status, sexual orientation, disability status, or veteran status will not be tolerated.

8. The people of the State of California call upon the delegates to the constitutional convention to provide practical solutions to the State's governance challenges that the voters of our great State will embrace and approve. Delegates must weigh complex issues in a fair-minded, and non-partisan manner. Delegates will need to be able to compromise, to work well in groups, and be able to resist influence that might be brought to bear on them by special interest groups.

9. All election-related reforms proposed by the constitutional convention shall comply with both the spirit and letter of the federal Voting Rights Act and the California Voting Rights Act, striving to improve participation and representation opportunities for all Californians.

10. The voters must approve any reforms proposed by the Constitutional Convention before they take effect, and the Convention shall be prohibited from proposing tax increases.

Section 4. Section 81017 is added to the Government Code to read as follows:

Section 81017. Call for a Constitutional Convention.

The people do hereby call for a convention for the purpose of revising or amending the Constitution of the State. A constitutional convention shall be convened and conducted according to the rules and principles set forth in this Title.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 5. Section 83113.5 is added to the Government Code to read as follows:

Section 83113.5. Constitutional Convention Commission.

The Fair Political Practices Commission (Commission) shall, in addition to its other duties, form a five-member Constitutional Convention Commission (the Convention Commission). The Convention Commission shall be made up of the members of the Commission, or their designees. The Chairman of the Commission, or his designee, shall serve as the chair of the Convention Commission. The members of the Convention Commission shall hold their office regardless of any changes in the membership of the Fair Political Practices Commission, although only a sitting Commissioner shall be entitled to fill a vacancy on the Convention Commission if necessary. The Convention Commission shall be subject to all rules set forth in this Title that apply to the Commission; provided that any regulatory rule-making procedures may be altered as required to meet the deadlines regarding a constitutional convention set forth in this Title. The Convention Commission shall meet periodically as it deems necessary. The Convention Commission's activities, including all expenses related to the provision of a constitutional convention and the selection of delegates, shall be funded, pursuant to Section 83122, as a necessary part of the Commission's purpose. The Convention Commission may appoint counsel, employees, and other consultants necessary to staff the Convention Commission and to enable it to carry out its functions in a timely fashion. In connection with their service on the Convention Commission, Convention Commissioners shall receive salaries equal to that of the Commissioners of the Public Utilities Commission during the period of time starting on

November 15, 2010 and until the chairman of the Commission determines that the Convention Commission no longer has remaining duties to perform pursuant to this Title. If already employed by the State in another, lower paid capacity, a Convention Commissioner's salary shall be increased in order to equal that amount paid to other Convention Commissioners.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 6. Section 83113.6 is added to the Government Code to read as follows:

Section 83113.6. Duties of the Constitutional Convention Commission.

The Convention Commission shall do all of the following:

(a) Provide for the convention called by the people pursuant to Section 81017, to be convened not later than June 3, 2011. The Convention Commission shall determine the exact date and location of the convention, and shall bear all costs and expenses incurred in the preparation for and conduct of the convention.

(b) Make public the delegate selection processes described in Sections 83126, 83127, and 83128.

(c) Be the final arbiter as to whether or not the delegates to the convention meet the qualifications set forth in Section 83129. The Convention Commission may dismiss any delegate who does not meet such qualifications. The Convention Commission may also set rules for the conduct of delegates, and may remove any delegate, with the concurrence of the convention, for substantial neglect of duty, gross misconduct, or inability to discharge the duties of a delegate, after written notice and opportunity for a reply.

(d) Hire a Clerk of the Constitutional Convention (the Clerk), as well as other consultants, including legal counsel, necessary for the preparation and provision of the convention. The Clerk shall be a non partisan position that shall meet the requirements for a Commissioner set forth in Section 83105. The Clerk shall serve at the pleasure of the Convention Commission; provided, however, that the convention may dismiss the Clerk by two thirds vote of all delegates.

(e) Provide training and information for delegates, as well as the two day session set forth in Section 83126.

(f) Extend any of the required deadlines set forth in Chapter 3.5, provided there are extraordinary circumstances justifying such an extension.

(g) Provide any additional assistance and perform any additional tasks as determined by the convention.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 7. Section 83113.7 is added to the Government Code to read as follows:

Section 83113.7. Clerk of the Convention.

The Clerk may act in the name of the Convention Commission between meetings of the Convention Commission and shall have the express authority to do all of the following:

(a) Subject to approval, or if necessary, ratification by the Convention Commission, prepare and revise as necessary a budget to fund the convention operations. The budget, and any subsequent revisions, shall be posted on the convention website.

(b) Provide a two-day workshop at the beginning of the convention describing the work of the convention, the ethics rules that apply to delegates, and relevant information about the Voting Rights Act as set forth in Section 83131.

(c) Prepare and present to the convention, for its adoption or modification, rules and procedures for the conduct of the business and operation of the convention, consistent with Robert's Rules of Order.

(d) Serve as temporary chair of the convention until such time as the convention shall select its own chair after completion of the preliminary education phase of the convention described in Section 83131. At such time, the Clerk shall prepare procedures for electing delegates to serve as chair and vice chairs in order to facilitate the orderly conduct of convention business.

(e) Establish and maintain the official website of the convention and develop any additional materials it deems necessary in preparation for or during the convention.

(f) Oversee the day-to-day administration of the convention, hire staff, including deputy clerks, contract for consultants, including legal counsel, and otherwise enter into contracts as necessary to staff the convention and enable it to carry out its functions.

(g) Provide any additional assistance and perform any additional tasks as determined by the Convention Commission or the convention itself.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 8. Chapter 3.5, commencing with Section 83125, is added to the Government Code to be entitled "Constitutional Convention" and to read as follows:

Section 83125. Delegates to the Convention

(a) There shall be three types of delegates; (1) Assembly District delegates, (2) County delegates; and (3) Indian Tribe delegates.

(1) There shall be 240 Assembly District delegates, three from each Assembly District.

(2) There shall be one County delegate for every 175,000 persons residing in each County of the State, based upon the most recent estimates published by the Demographic Research Unit of the California Department of Finance. Fractional portions of 175,000 shall not be counted, provided that there shall be at least one County delegate for each County. For example, if a County has 500,000 residents, there shall be two County delegates, and if a County has less than 175,000 residents, there shall be one County delegate.

(3) There shall be four Indian Tribe delegates, serving as representatives of the federally recognized Indian Tribes in the State.

(b) All delegates must meet the qualifications set forth in Section 83129.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83126. Delegate Selection, Assembly District Delegates.

(a) No later than January 15, 2011, the State Auditor shall select at random the names of 400 people in each Assembly District that are residents of that Assembly District. The State Auditor, in consultation with such experts as she determines necessary, shall select individuals from a combination of databases such as a statewide voter registration list if available, vehicle registration records, California taxpayers list, telephone directories, or such other databases as the State Auditor determines appropriate to maximize participation by all those who meet Section 83129(a)'s qualifications and not exclude under-represented communities from the process. Any person can self-nominate her or himself to be included in the overall pool from which the State Auditor selects names by sending a letter to the State Auditor, to be received no later than January 3, 2011. The State Auditor shall include such a person in the overall pool only if the State Auditor determines that the person would not otherwise be included in databases utilized in the selection process.

(b) No later than February 1, 2011, the State Auditor shall send a letter of invitation to the people selected pursuant to paragraph (a), along with a fact sheet prepared by the Convention Commission explaining the convention process, the qualification requirements, role and responsibilities of delegates, the expectation of delegates, work schedule, compensation, and any other information the Convention Commission deems important.

(c) Any recipient of the letter sent by the State Auditor pursuant to paragraph (b) may be considered for appointment as an Assembly District delegate by responding in writing to the State Auditor's letter, to be received no later than February 15, 2011. The State Auditor shall sort the names of all those who respond based upon the Assembly District in which the person resides. If there are not at least 20 names for each Assembly District, the State Auditor shall send out additional letters of invitation as set forth above.

(d) No later than March 1, 2011, the State Auditor shall randomly select, from those who responded pursuant to paragraph (c), 50 people in each Assembly District to receive a second invitation to attend a two day session conducted by the Convention Commission, the Clerk, or designee, at a location within the Assembly District to conclude no later than March 21, 2011. In the event that less than 50 people in an Assembly District responded pursuant to

paragraph (c), all those who responded pursuant to paragraph (c) shall be invited to attend the two day session. The Convention Commission shall reimburse reasonable travel and other incidental expenses actually incurred in attending the session. The two day session shall be open to the public at all times.

(e) At the beginning of the two day session the Convention Commission shall explain the process of the convention, the anticipated work schedule, and the duties and compensation of delegates. Each potential Assembly District delegate interested in serving as delegates shall thereupon certify that they meet the requirements for an Assembly District delegate, and shall sign a pledge stating that they will endeavor to carry out the duties of a delegate to the best of their abilities in a fair and unbiased manner. In keeping with the fundamental purposes underlying this Act, the Convention Commission shall develop a process by which those in attendance shall then elect by secret ballot three people from among themselves to be Assembly District delegates and two people to be alternate Assembly District Delegates. The election process determined by the Convention Commission shall provide time for each potential delegate to speak to those assembled, and may include multiple rounds of voting in order to elect Assembly District Delegates and alternates. The first alternate to be elected shall be designated as "Alternate One," and shall be the first to fill a vacancy. The second alternate to be chosen shall be designated as "Alternate Two," and shall be the second to fill a vacancy. The results of the election shall be publicly announced at the end of the two day session, and the names of those elected to be Assembly District delegates and alternates shall be posted on the Convention Commission's website no later than March 28, 2011.

(f) In the event that at any time the number of alternate Assembly District delegates is insufficient in number, the State Auditor shall provide for additional alternate Assembly District delegates through the process set forth in paragraphs (a)-(c) without the procedures set forth in paragraphs (d)-(e).

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83127. Delegate Selection, County Delegates.

(a) There shall be a County Delegate Selection Committee in each County. The County Delegate Selection Committee shall be made up of five people as follows: (1) two members of the County Board of Supervisors, selected by majority vote of the County Board of Supervisors; (2) the mayors who serve as chair and vice chair of the City Selection Committee enabled in each county pursuant to Section 50270; and (3) a person that is selected by the governing boards of the school districts in the County and the county boards of education as set forth in paragraph (b). In the event that there is not a City Selection Committee in a County pursuant to Section 50270, the Board of Supervisors shall select four members of the County Delegate Selection Committee. Members of the County Delegate Selection Committee shall serve without pay, but shall be reimbursed by the Convention Commission for reasonable travel and other incidental expenses. County Staff shall assist the County Delegate Selection Committee as necessary, which reasonable costs shall also be reimbursed by the Convention Commission. The County Delegate Selection Committee in each County shall vote to select one member as its chair. Three members of the County Delegate Selection Committee shall

constitute a quorum and a vote of the majority of those present shall be required for any action by the County Delegate Selection Committee. The County Delegate Selection Committee shall be subject to the Public Records Act and the Ralph M. Brown Act.

(b) No later than January 15, 2011, the County Superintendent of Schools for each County shall call a meeting to which shall be invited all members of the governing boards of all school districts in the County, and the members of the County's board of education. When a district's boundaries are in multiple counties, governing board members shall attend the meeting of the county of their residence. Such a meeting shall be subject to the Ralph M. Brown Act, except that any prohibition set forth in Section 54954 (b) shall not apply to prevent the meeting from taking place at such location as the County Superintendent of Schools determines appropriate. The location of the meeting shall comply with Section 54961. In the event that there is a single school district in the County, the meeting may be agendaized as an item on an otherwise scheduled meeting of the governing board. At the meeting, those assembled shall select, by majority vote, a member of a governing board of a school district within the County or a member of the county board of education to serve as a member of the County Delegate Selection Committee.

(c) Beginning no later than April 1, 2011, and finishing no later than May 13, 2011, the County Delegate Selection Committee of each County of the State shall hold public meetings to select, by majority vote, County delegates to the convention. The County Delegate Selection Committee may determine in its discretion the criteria to be used in selecting delegates, provided that it does not discriminate against any person on the basis of race, ethnicity, religion, color, national origin, age, sex, familial status, sexual orientation, disability status, or veteran status. Before considering any person for service as a County delegate, the County Delegate Selection Committee shall first make public the criteria used for the selection of delegates. In selecting delegates, the County Delegate Selection Committee shall only consider, at a public meeting, the application of any person present at such meeting who desires to be considered for service and who meets the qualifications of a County delegate as well as the criteria set by the County Delegate Selection Committee. The County Delegate Selection Committee must publicly post for at least five calendar days the name of any person preliminarily selected at a public meeting to be a County delegate or alternate, and may not finally confirm such a County delegate or alternate until a second public meeting. The County Delegate Selection Committee shall issue findings demonstrating that the delegates selected meet the selection criteria. All County delegates and alternates selected must certify that they meet the requirements for County delegates and must sign a pledge stating that they will endeavor to carry out the duties of a delegate to the best of their abilities in a fair and unbiased manner.

(d) In counties in which there are no cities with a population of greater than one million people, the County Delegate Selection Committee shall select all the delegates from that County. In Counties in which there are cities with a population of greater than one million people, the number of delegates selected by the County shall be reduced by the number of delegates to be selected by the City Council as set forth in subparagraph (e). In such Counties, the County Delegate Selection Committee may not select delegates that are residents of a city with a population of greater than one million people. For each delegate it selects, the County Delegate Selection Committee shall also select, at its discretion, between one and fifty people to serve as alternate delegates, but in no case shall it select more alternates than delegates. The

County Delegate Selection Committee shall identify the order of the alternates and in the event a selected person is unable to serve as a delegate, or is excused from service, an alternate member shall serve in the order identified. In the event that the pool of alternate delegates is insufficient in number, the County Delegate Selection Committee shall provide for additional alternates at such time as it deems appropriate.

In no event shall a failure of the County Delegate Selection Committee to select delegates in accordance with this Section affect the opening or operation of the Convention as set forth in Section 83131.

(e) The City Council of each city with a population of greater than one million people shall meet to select, by majority vote, delegates to the convention pursuant to the process set forth in paragraph (f). The number of delegates selected by the City Council shall be in proportion to the total population of the County in which the City lies, and the total number of delegates selected from the County, rounded to the nearest whole number percentage and whole number of delegates. For example, if a County has a population of 10,393,185 and a City within that County has a population of 4,065,585, the delegates from that County shall be selected as follows: (1) The total number of delegates allotted to the County shall be calculated by dividing the total population by 175,000, and rounding to the nearest whole number—in the example given, 10,393,185 divided by 175,000 is 59.38, meaning that the County will send a total of 59 delegates to the convention; (2) The proportionate percentage of the City population shall be calculated by dividing it by the total population of the County and rounded to the nearest whole number percentage—in the example given, 4,065,585 divided by 10,393,185, rounded to the nearest whole number percentage, is 39%, meaning that the City Council will select 39% of the 59 delegates from the County; (3) The applicable number of delegates is calculated, rounded to the nearest whole number—in the example given, 39% of 59 delegates, rounded to the nearest whole number is 23. Therefore, in the example given, the City Council will select 23 of the County's 59 delegates, and the County Delegate Selection Committee will select 36 of the County's 59 delegates.

(f) Beginning no later than April 1, 2011, and finishing no later than May 13, 2011, the City Council shall hold public meetings to select, by majority vote, County delegates to the convention. The City Council may determine in its discretion the criteria to be used in selecting delegates, provided that they do not discriminate against any person on the basis of race, ethnicity, religion, color, national origin, age, sex, familial status, sexual orientation, disability status, or veteran status. Before considering any person for service as a delegate, the City Council shall first make public the criteria used for the selection of delegates. In selecting delegates, the City Council shall only consider, at a public meeting, the application of any person present at such meeting who desires to be considered for service and who meets the qualifications of a County delegate as well as the criteria set by the City Council. The City Council must publicly post for at least five calendar days the name of any person preliminarily selected at a public meeting to be a County delegate or alternate, and may not finally confirm such a delegate or alternate until a second public meeting. The City Council shall issue findings demonstrating that the delegates selected meet the selection criteria. All County delegates and alternates selected must certify that they meet the requirements for County delegates and must sign a pledge stating that they will endeavor to carry out the duties of a delegate to the best of their abilities in a fair and unbiased manner.

(g) For each delegate it selects, the City Council shall also select, at its discretion, between two and fifty people to serve as alternate delegates, but in no case shall it select more alternates than delegates. The City Council shall identify the order of the alternates and in the event a selected person is unable to serve as a delegate, or is excused from service, an alternate member shall serve in the order identified. In the event that the pool of alternate delegates is insufficient in number, the City Council shall provide for additional alternates at such time as it deems appropriate.

In no event shall a failure of the City Council to select delegates in accordance with this Section affect the opening or operation of the Convention as set forth in Section 83131.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83128. Delegate Selection, Indian Tribe Delegates.

No later than April 15, 2011, the federally recognized Indian Tribes in each of the four federal judicial districts in the State shall meet to select one delegate and two alternate delegates that shall represent the federally recognized Indian Tribes. Indian Tribe delegates shall not be chosen on the basis of race, sex, color, ethnicity, or national origin, but rather shall serve as representatives of the federally recognized Indian Tribes in the State. Any delegate chosen to represent the Indian Tribes must meet the qualifications for delegates set forth in Section 83129, and must sign a pledge stating that they will endeavor to carry out the duties of a delegate to the best of their abilities in a fair and unbiased manner.

In no event shall a failure of the federally recognized Indian Tribes to select representative Indian Tribe delegates in accordance with this Section affect the opening or operation of the Convention as set forth in Section 83131.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83129. Delegate Qualifications

(a) All delegates shall be citizens of the United States of the age of 18 years or older and shall be bona fide residents of the State at the time of selection and during the period of their service as delegates. No person may be a delegate if the person has been convicted of a felony. The Convention Commission shall be the sole judge of the qualifications of delegates, and shall disqualify any delegate that does not meet the minimum qualifications set forth herein.

(b) In addition to meeting the requirements for delegates set forth in paragraph (a), County delegates must be a bona fide resident of the County or City from which they were selected at the time of selection and during their period of service as delegates. County delegates shall also possess the additional qualifications as set forth below.

No County delegate shall

(1) have been appointed (or re-appointed) to, or been elected to, a federal, State or local office, agency, or commission in California, including the state central committee or county central committee of a recognized political party, after the year 2005.

(2) have served as an officer, employee, or paid consultant of a candidate, political party or of a committee, including a Primarily Formed Committee and General Purpose Committee, which was formed or existed primarily to support or oppose a candidate for elective federal, state, or local office in California after the year 2005.

(3) have been a registered State or local lobbyist in California, or received any salary, wages, commissions or earned income from a state or local lobbyist or lobbying firm in California after the year 2005.

(4) have served as paid staff to any State Elective Office, State Commission, or State Agency after the year 2005.

(c) An employer may not discharge or in any manner discriminate against an employee for taking time off to serve as a delegate if the employee, prior to taking the time off, gives reasonable notice to the employer that he or she has been selected to serve as a delegate.

(d) No delegate, during his or her tenure, shall hold any other public office, serve as an officer of any political party or partisan organization, or employ or be employed as a lobbyist nor, during his or her tenure, seek election to any other public office.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83130. Scope of the Convention.

(a) Any convention called pursuant to Section 81017 is authorized to prepare a revision, or a series of separate amendments, to the Constitution only within the following four areas:

(1) Government Effectiveness, including a method for periodically reviewing each State agency, department, board and commission to determine whether it is performing its functions to meet the needs of the people of the State and whether it should have its enabling legislation modified, be merged into another new or existing entity, or cease to exist.

(2) Elections and Reduction of Special Interest Influence, including the initiative and referendum process, the election of state office holders, campaign finance, term limits, and ways to increase legislative responsiveness, reduce gridlock and produce full representation of all Californians.

(3) Spending and Budgeting, including the budget process and related requirements, the term and balancing of a budget, voting thresholds, mandated spending, and ways to increase fiscal accountability and efficiency.

(4) Governance, including the relationship between the state and local governments, and the structure of the legislative and executive branches of government.

(b) The convention may also propose to change any statutory provision directly related to the proposed constitutional revision or amendment. The revision, any amendment, or any related statutory provision proposed by the convention may not include new language, or alter existing language, that (1) directly imposes or reduces any taxes or fees; (2) sets the frequency at which real property is assessed or re-assessed; or (3) defines "change in ownership" as it relates to any tax or fee; provided that minor alterations to existing sections of the Constitution, or statutory provisions, including but not limited to renumbering or reorganization of sections, shall not violate this Section so long as such minor alterations do not alter the amount or fundamental nature of an existing tax or fee. In addition, the revision, any amendment, or any related statutory provision proposed by the convention may not include new language, or alter existing language, directly affecting marriage or abortion rights, gambling or casinos of any type, affirmative action, freedom of the press, freedom of religion, immigration rights, or the death penalty.

(c) Any revision or amendment proposed by the convention shall meet the limits set forth in this Section, which limits may be judicially enforced through extraordinary writ. If any of the provisions proposed for enactment is found to be invalid, such finding shall not affect the validity of any other provision proposed for enactment.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83131. The Constitutional Convention.

(a) The delegates to the constitutional convention called pursuant to Section 81017 shall assemble in a location and at a time determined by the Convention Commission, provided that the convention shall open no later than June 3, 2011. If all delegates have not yet been selected, pursuant to Sections 83126, 83127, and 83128, the Convention shall nevertheless assemble and commence its work, so long as a majority of the total number of required delegates is present. The Chief Justice of the Supreme Court of California, or his or her designee, shall open the proceedings, call the roll, and administer an oath of office to the convention delegates.

(b) A majority of the convention shall constitute a quorum for the transaction of business. Any action of the convention shall require approval by a majority vote of the convention membership. Whenever possible, the delegates shall strive for broad consensus. The convention may establish its own procedures. In the absence of any rule to the contrary, Robert's Rules of Order shall govern. The convention shall have the power to appoint such officers, employees, counsel, and assistants as it may deem necessary, or it may utilize staff of the Legislative Analyst, the Clerk, or Convention Commission. In addition to any other role determined by the convention, at any time while in session the convention may ask the Legislative Analyst or the Attorney General for legal opinions, which shall be expedited at the convention's request.

(c) During the time the convention is in session, Convention delegates shall be compensated in an amount equal to that of the lowest paid members of the legislature (those designated “all other legislators” by the California Citizens’ Compensation Commission), and all policies and procedures for reimbursement of expenses that apply to legislators shall apply to convention delegates. Subject to the terms of the preceding sentence, the Convention Commission shall arrange for the compensation for delegates and provide reasonable reimbursement of actual expenses. Neither delegates nor any person employed by the convention or the Convention Commission shall be subject to the provisions of Article VII, Section 1-5, of the Constitution by virtue of such employment.

(d) During the first two days of the convention the Clerk shall conduct a training workshop for all delegates describing the work of the convention and including the ethics training and Voting Rights Act information described in Section 83113.7.

(e) The convention shall determine the manner in which it conducts its business. However, the Clerk shall present to the convention, for its adoption or modification by majority vote, a proposed schedule for the convention. This schedule should describe different phases of the convention. The proposed schedule shall reserve a period of time at the beginning of the convention for the education of delegates on the areas of the Constitution subject to revision, as well as the presentation of proposals submitted by experts selected by the Clerk, or proposals selected by the Clerk submitted by any interested party. Following the initial education period, the schedule shall require the convention to elect its chair and vice chairs. The proposed schedule shall also include a public hearing component that shall involve at least 20 town meetings held throughout the state. The proposed schedule should reserve time for delegates to meet in their home district or county to further maximize public involvement.

(f) The convention shall continue in session and shall not recess until it shall have completed the work of preparing a revision or series of separate amendments and provided the same to the Secretary of State for submission to the voters for approval or rejection. The convention, or at its instruction the Clerk, shall also prepare a final report that shall fully describe the convention’s work. Unless an extension of time is authorized by a two-thirds vote of the convention, the convention shall complete its work and adjourn by March 1, 2012. In no event shall the convention continue in session after July 1, 2012. Prior to adjournment, the Convention shall establish a committee of delegates to act as author for purpose of drafting and submitting statements to the ballot pamphlet, including any argument or rebuttal statements and accepting all of the rights and responsibilities of the official proponents of a ballot measure. Such a committee may continue to perform the limited duties set forth in this paragraph after adjournment of the Convention.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83132. Open, Transparent and Accessible Convention.

(a) The convention shall be free and open to the public. The Convention shall be subject to the California Public Records Act. In order to ensure transparency and openness, the convention shall adopt rules that ensure the following:

(1) That all sessions of the convention, including meetings of any committee or subcommittee, shall be public.

(2) That facilities for public attendance are provided, with access for all persons with disabilities.

(3) That adequate facilities for the press are provided, to support print, television, radio, and internet media.

(4) That any rules adopted by the Convention concerning access to or conduct within sessions shall not restrict public access beyond the degree necessary to ensure safety, security, and the orderly performance of Convention business.

(b) The convention shall create an official record. In order to guarantee a full and accurate account of the Convention, the Convention shall adopt rules to ensure the following:

(1) That the Convention utilizes available technologies to maximize the public's ability to observe and/or provide input into the Convention's activities. At a minimum, audio and video broadcasts of the Convention's activities shall be made, at least to the same extent as sessions of the legislature are currently broadcast on the California Channel.

(2) That an official record of the Convention shall be created and shall include

(1) A transcript of all proceedings.

(2) Every vote and the identity of the delegate casting the vote.

(3) That to the greatest extent possible, the full record of the convention shall be available in formats accessible to persons with disabilities.

(4) That any action taken by the Convention, and all proposals adopted shall be posted on the Convention website.

(c) The budget and all financial accounts and books of the convention shall be public records. The convention shall prepare monthly statements showing all funds expended. Such monthly records shall be posted on the convention website and shall be sent to the California State Auditor for review. The State Auditor shall comment on the reasonableness of the monthly statements, which comment shall also be posted on the convention website, along with an official response to any comments made by the State Auditor.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 83133. Submission to the Voters.

(a) Within seven days after the adjournment of the convention, the Governor shall, by proclamation, call for a special election to be held throughout the state. The special election shall be consolidated with a statewide election and shall be conducted no later than November 6,

2012. At the election called by the Governor, the revision or amendments proposed by the convention shall be submitted to the people for adoption or rejection.

(b) With regard to the election described in paragraph (a), the Secretary of State shall follow, to the greatest extent practical, the procedures for an election containing an initiative measure submitted by the people set forth in Division 9, Chapter 1 of the Elections Code. Notwithstanding any contrary provisions in the Elections Code or Government Code, at the Secretary of State's discretion, the ballot pamphlet for the election need not include the text of the entire revision or amendments, but shall contain a website location where the full text of the revision or amendments proposed by the convention can be found. In such case, hard copies of the entire revision or amendments shall be available upon request, and shall be provided for public examination at locations throughout the State as determined by the Secretary of State. The ballot pamphlet shall include an official summary prepared by the Attorney General and an impartial analysis of the revision or amendments prepared by the Legislative Analyst in accordance with Elections Code Section 9087.

When necessary for scheduling reasons, the Secretary of State may set deadlines for the submission of arguments and rebuttal statements, and the printing and mailing of the ballot pamphlet, that differ from those set forth in the Elections Code. The Legislative Analyst shall be bound by the deadlines set by the Secretary of State.

(c) The Secretary of State shall prepare a complete abstract of the whole number of votes cast for and against the constitutional revision, or each separate amendment. If it shall appear from such returns that a majority of the electors voting at such election on the question of the adoption or rejection of the proposed constitutional revision or each amendment shall have voted in favor of its adoption, such revision or amendment shall be incorporated into the Constitution of the State of California, and any statutory provision included shall similarly become law.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in this Section takes place.

Section 83134. Ethical Obligations of Delegates

(a) From the time they are selected and until the election described in Section 83133, all delegates shall be considered public officials. To the same extent as elected state officers, all delegates shall be subject to this Title's provisions governing Conflicts of Interest, as well as all restrictions on gifts, honoraria, travel payments, and personal loans. All delegates shall be required to complete an ethics training that will set forth all applicable rules and requirements consistent with this Section, such ethics training to be provided by the Clerk as part of the two-day training program described in Section 83113.7.

(b) While the convention is in session, delegates shall keep track of all communications, including but not limited to meetings, telephone calls, letters and e-mails, with any and all persons concerning any procedural or substantive aspect of the convention, along with the name and organizational affiliation (if any) of the person and a brief description of the subject matter of the communication. Delegates shall provide this information to the Clerk at the

beginning of every week, covering communications during the prior week, who shall immediately post this information on the convention website.

(c) In addition to all reporting requirements contained in this Title, lobbyists and lobbying firms must file with the Convention Commission weekly reports of all contacts with delegates while the convention is in session. Such reports shall be posted on the convention website.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 9. Section 85803 is added to the Government Code to read as follows:

85803. Funding the Constitutional Convention

(a) In addition to the appropriation described in Section 85802, the sum of \$1.75 per California resident is hereby transferred from the General Fund to the Constitutional Convention Fund, which is hereby created in the State Treasury to be appropriated to the Commission without regard to fiscal year for the payment of expenses incurred by the Constitutional Commission in the provision of the constitutional convention called pursuant to Section 81017. Provided, however, that so long as the total appropriation to the Constitutional Convention Fund pursuant to this Section does not exceed \$95,000,000, the amount set forth in the previous sentence may be reduced, or increased, by a sum determined by the Department of Finance, to enable the Commission to pay all expenses incurred in providing for the constitutional convention called pursuant to Section 81017. In addition, the Department of Finance shall make any necessary adjustments to the appropriation for the expenses incurred in the provision of the constitutional convention based on changes to the Consumer Price Index at the beginning of each calendar year in which the convention is in session. Any funds remaining in the Constitutional Convention Fund as of the date of the election called pursuant to Section 83133 shall be returned to the General Fund.

(b) If any action by the Convention Commission or constitutional convention is successfully challenged in a court of law, any attorney's fees and costs awarded by a court to a prevailing party shall be paid from the General Fund and no part of the Convention Commission's, constitutional convention's, or Fair Political Practices Commission's budgets shall be reduced accordingly.

This Section shall expire on the earlier of December 31, 2014, or December 31 of the year in which the election described in Section 83133 takes place.

Section 10. Severability

If any of the provisions of this measure or the applicability of any of the provisions of this measure to any person or circumstances shall be found to be invalid, such finding shall not affect the remaining provision or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable. In particular, so long as severing a provision found to be invalid does not result in a reduction of more than 25% in the number of delegates, the remaining portions of this measure shall be held to be in effect in order

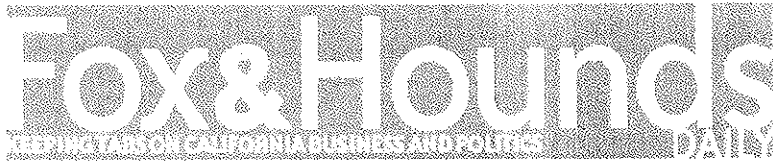
that this Act may accomplish its purposes. Any judicial determination as to the validity of the scope of the convention set forth in Section 83130 shall similarly not prevent the convention from meeting as set forth in this Act.

Section 11. Amendment

This Act shall be broadly construed to accomplish its purposes. The statutory provisions of this Act may only be amended by a bill that complies with Government Code Section 81012.

Section 12. Conflicting Measures

Except as set forth below, in the event that this measure and another measure or measures that (1) calls for a Constitutional Convention, (2) describes the processes or rules by which delegates to such a convention are to be elected or selected, or (3) describes or limits the specific areas of the Constitution to be considered by such a convention, shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the other measure shall be null and void. Notwithstanding the foregoing, another measure or measures that amends Article 18 Section 2 of the constitution without (1) calling for a Constitutional Convention, (2) describing the specific processes or rules by which delegates to such a convention are to be elected or selected, or (3) describing or limiting the specific areas of the constitution to be considered by such a convention shall not be deemed to be in conflict with this measure.



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Would Con Con Be a Revolt of the Locals?

By Joe Mathews

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If you strongly believe that California's local governments need more power and discretion, you probably should get behind the constitutional convention.

It's hard to predict how an event that may never take place might work. But the just-filed initiative to call a convention, considered in the light of history, offers some clues.

Here's what jumps out: the method of delegate selection all but guarantees that the views of cities, counties and school districts will be extraordinarily well represented. It's possible to imagine the locals dominating the convention.

How's that? The exact number of delegates that would be selected by local governments (either through county selection committees that include county supervisors, mayors and a school board representative, or by city councils in the state's three largest cities) is not yet known because it would be based on population. The locals would get one delegate for every 175,000 residents (every county is guaranteed at least 1 delegate). Assuming California's population is 38 million people next year, that's 217+ locally appointed delegates. That's not a majority, but it's a big minority.

In practice local appointees would likely be the largest and most organized bloc at a convention. Yes, the majority of the convention would be the 240 delegates representing the 80 Assembly delegates, but these would be regular citizens chosen essentially at random. It's unlikely that people selected that way would cohere into a governing majority. But local governments would be able to choose their own delegates. And so cities, counties, and their advocacy organizations would almost certainly try to organize these delegates around a coherent agenda for local government.

If such organizing efforts were to succeed, the locals would have to win over only a small percentage of the unwashed, randomly-selected delegates to put their priorities in the proposed new constitution. (The convention would decide most matters by majority vote, according to the initiative.)

Something similar happened in California's last convention, back in 1878-1879. The Workingmen's Party (aka the Kearneyites) were a sizable minority (a little more than a third) of the convention, and proved to be better organized and more cohesive than the majority, a collection of non-partisan delegates who didn't know each other. Voting as a bloc, the Workingmen prevailed on most of the big questions.

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