

File No. 140321

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____
Board of Supervisors Meeting

Date _____
Date April 8, 2014

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
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- Introduction Form
- Department/Agency Cover Letter and/or Report
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- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- California SCA 5 _____
- _____
- _____
- _____
- _____

Completed by: John Carroll Date April 3, 2014

Completed by: _____ Date _____

1 [Urging the California State Legislature to Pass Senate Constitutional Amendment 5 and Send
2 It to the Voters]

3 **Resolution urging the California State Legislature to pass Senate Constitutional**
4 **Amendment 5 that would, with voter approval, amend the State Constitution and**
5 **overturn the ban on using affirmative action criteria for recruitment and admissions to**
6 **state institutions of higher education.**

7
8 WHEREAS, The passage of Proposition 209 in 1996 has led to a proportional decline
9 in underrepresented students, particularly in the UC system, by banning the use of race, sex,
10 color, ethnicity, or national origin as factors in recruiting and admitting students into public
11 educational institutions; and

12 WHEREAS, Although California public educational institutions can give admission
13 preference based on military service, income, geographic background, athletic ability, and
14 legacy, Proposition 209 bars state schools from using race for recruitment and admissions,
15 thus diminishing campus and workforce diversity, the fight for equality and racial integration,
16 and the development of future minority leadership; and

17 WHEREAS, After passage of Proposition 209, in 1998 enrollment by African-American
18 and Latino students dropped by over 50% at UC Berkeley and over 30% at UCLA according
19 to the UC President's Office of Student Affairs and Admissions; and

20 WHEREAS, Systemwide in 2012, 54% of California high school graduates were in
21 underrepresented groups; 39%, based on GPA and test scores, were in the eligibility pool for
22 UC campuses; but only 31% were admitted to the freshman class; and

23 WHEREAS, According to a 2012 amicus brief filed by 444 American social science
24 researchers from 42 states and 172 educational institutions and research centers, many from
25 both public and private colleges and universities in California, submitted in the *Fisher v.*

1 *University of Texas* case brought before the U.S. Supreme Court, lower diversity levels lead to
2 racial isolation and a negative racial climate, harming the nation's future and the quality of
3 education for all students; and

4 WHEREAS, The same amicus brief states that allowing race as a consideration in
5 admissions can serve as a "symbolic beacon of a welcoming environment' that helps
6 students to overcome their reluctance to apply or enroll at a selective institution;" and

7 WHEREAS, As established by the U.S. Supreme Court, in *Regents of the University of*
8 *California v. Bakke* and *Grutter v. Bollinger*, race can be used in admissions policies under a
9 standard of "strict scrutiny," to ensure a diverse student body and educational experience,
10 benefitting both minority and non-minority students alike; and

11 WHEREAS, Proposition 209 went beyond what is required by the U.S. Supreme Court
12 and banned completely the use of race in admissions; and

13 WHEREAS, State Senator Ed Hernandez proposed Senate Constitutional Amendment
14 5 (SCA 5) on December 3, 2012, to amend the California Constitution, Section 31 of Article I;
15 and

16 WHEREAS, SCA 5 allows public educational institutions, like private educational
17 institutions, to use affirmative action criteria in recruiting and admissions to the full extent of
18 the law, in accordance with the Equal Protection Clause of the Fourteenth Amendment, and
19 thus does not and cannot operate as a quota, nor would it allow for admitting unqualified
20 students; and

21 WHEREAS, Support for SCA 5 has come from medical associations such as the
22 California Medical Association, the California Nurses Association, the California Pharmacists
23 Association and many others, since research has shown that the drop in racial diversity is
24 greatest in science fields, thus endangering a diverse medical workforce and the health of
25 underrepresented communities; and,

1 WHEREAS, Further support has come from educational and student associations
2 throughout the state, among others; and

3 WHEREAS, SCA 5 has been heard in the Senate Committees on Education, Elections
4 and Constitutional Amendments, and Appropriations, and on January 30, 2014 was approved
5 in the California Senate by a vote of 27 to 9; and

6 WHEREAS, Notwithstanding all the aforementioned evidence and support, as of March
7 17, 2014, SCA 5 has been stalled in the California State Assembly; and, now, therefore, be it

8 RESOLVED, That the San Francisco Board of Supervisors urges the California State
9 Assembly to pass Senate Constitutional Amendment 5 to allow California voters the chance to
10 amend the State Constitution, overturn the ban on affirmative action in public educational
11 institutions, and create more a equitable and diverse public education system, workplace, and
12 society.



California
LEGISLATIVE INFORMATION

SCA-5 Public education: student recruitment and selection. (2013-2014)

AMENDED IN SENATE MAY 30, 2013

CALIFORNIA LEGISLATURE— 2013-2014 REGULAR SESSION

**SENATE CONSTITUTIONAL
AMENDMENT**

No. 5

Introduced by Senator Hernandez
(Principal coauthor: Assembly Member Bradford)
(Coauthors: Senators Block, De León, Lara, Leno, and Steinberg)
(Coauthor: Assembly Member Garcia)

December 03, 2012

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 31 of Article I thereof, relating to public-postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SCA 5, as amended, Hernandez. Public-postsecondary education: student recruitment and selection.

The California Constitution prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

This measure would provide that the above prohibition does not prevent state institutions of higher education, as defined, from implementing student recruitment and selection programs permissible under the equal protection clause of the 14th Amendment to the United States Constitution *eliminate this prohibition on state discrimination or preference in the operation of public education.*

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2013-14 Regular Session commencing on the third day of December 2012, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 31 of Article I thereof is amended to read:

SEC. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, ~~public education,~~ or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) ~~Nothing in this~~ This section shall *not* be interpreted as prohibiting bona fide qualifications based on sex which ~~that~~ are reasonably necessary to the normal operation of public employment, ~~public education,~~ or public contracting.

(d) ~~Nothing in this~~ This section shall *not* be interpreted as invalidating any court order or consent decree which ~~that~~ is in force as of the effective date of this section.

(e) ~~Nothing in this~~ This section shall *not* be interpreted as prohibiting action which ~~that~~ must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.

(f) For the purposes of this section, "State" shall include, but not necessarily be limited to, the State itself, any city, county, city and county, ~~public university system, including the University of California, community college district, school district,~~ special district, or any other political subdivision or governmental instrumentality of or within the State. "State" *does not include the University of California or the Public School System.*

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

That Section 31 of Article I thereof is amended to read:

~~SEC. 31.(a)The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.~~

~~(b)Notwithstanding subdivision (a), this section does not prevent state institutions of higher education from implementing student recruitment and selection programs that are permissible under the equal protection clause of the Fourteenth Amendment to the United States Constitution.~~

~~(c)This section shall apply only to action taken after the section's effective date.~~

~~(d)This section shall not be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.~~

~~(e)This section shall not be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.~~

~~(f)This section shall not be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, if ineligibility would result in a loss of federal funds to the State.~~

~~(g)(1)For the purposes of this section, "State" shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.~~

~~(2)For the purposes of this section, "state institutions of higher education" shall mean: (A) the California Community Colleges; (B) the California State University, and each campus, branch, and function thereof; and (C) each campus, branch, and function of the University of California.~~

~~(h)The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.~~

~~(i)This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.~~

Caldeira, Rick (BOS)

From: Power, Andres
Sent: Thursday, April 03, 2014 12:08 PM
To: Caldeira, Rick (BOS); Goossen, Carolyn; Tugbenyoh, Mawuli; Cretan, Jeff (BOS); Angulo, Sunny (BOS); Lee, Ivy (BOS); Veneracion, April (BOS)
Cc: Johnston, Conor (BOS); BOS Legislation
Subject: RE: Breed; Campos--Resolution--Urging Passage of Senate Constitutional Amendment 5

Confirmed.

Andres Power
Office of Supervisor Scott Wiener
(t) 415-554-6968


From: Caldeira, Rick (BOS)
Sent: Thursday, April 03, 2014 11:56 AM
To: Goossen, Carolyn; Tugbenyoh, Mawuli; Power, Andres; Cretan, Jeff (BOS); Angulo, Sunny (BOS); Lee, Ivy (BOS); Veneracion, April (BOS)
Cc: Johnston, Conor (BOS); BOS Legislation
Subject: RE: Breed; Campos--Resolution--Urging Passage of Senate Constitutional Amendment 5
Importance: High

Aides,

In order to add sponsors I need confirmations from each of your respective offices. I will list them in the order I receive confirmation.

Regards,

Rick Caldeira, MMC
Legislative Deputy Director
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7711 | Fax: (415) 554-5163
rick.caldeira@sfgov.org | www.sfbos.org

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From: Johnston, Conor (BOS)
Sent: Wednesday, April 02, 2014 4:50 PM
To: BOS Legislation
Cc: Caldeira, Rick (BOS); Goossen, Carolyn; Tugbenyoh, Mawuli; Power, Andres; Cretan, Jeff (BOS); Angulo, Sunny (BOS); Lee, Ivy (BOS); Veneracion, April (BOS)
Subject: RE: Breed; Campos--Resolution--Urging Passage of Senate Constitutional Amendment 5

Hi Rick,

Unless I'm misinformed, could we please add Supervisors Wiener and Kim as cosponsors to the affirmative action reso? It was introduced as Breed; Campos, so it's fine if these get added after intro.

I'm told Sup. Cohen would like to be added as well, but will defer to Mawuli for confirmation.

Conor Johnston
Office of Supervisor London Breed
415-554-6783

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or visit www.londonbreed.org

From: Johnston, Conor (BOS)
Sent: Tuesday, April 01, 2014 5:08 PM
To: BOS Legislation
Cc: Caldeira, Rick (BOS); Goossen, Carolyn
Subject: Breed; Campos--Resolution--Urging Passage of Senate Constitutional Amendment 5

Attached is proposed legislation concerning: Urging the California State Legislature to Pass Senate Constitutional Amendment 5 and Send It to the Voters.

Attachments:

- 1) The resolution

Thank you.

Conor Johnston
Office of Supervisor London Breed
415-554-6783

Caldeira, Rick (BOS)

From: Veneracion, April (BOS)
Sent: Thursday, April 03, 2014 11:58 AM
To: Caldeira, Rick (BOS); Goossen, Carolyn; Tugbenyoh, Mawuli; Power, Andres; Cretan, Jeff (BOS); Angulo, Sunny (BOS); Lee, Ivy (BOS)
Cc: Johnston, Conor (BOS); BOS Legislation
Subject: RE: Breed; Campos--Resolution--Urging Passage of Senate Constitutional Amendment 5

Supervisor Kim has confirmed her co-sponsorship of this resolution.

Thank you,
April


From: Caldeira, Rick (BOS)
Sent: Thursday, April 03, 2014 11:56 AM
To: Goossen, Carolyn; Tugbenyoh, Mawuli; Power, Andres; Cretan, Jeff (BOS); Angulo, Sunny (BOS); Lee, Ivy (BOS); Veneracion, April (BOS)
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Rick Caldeira, MMC
Legislative Deputy Director
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7711 | Fax: (415) 554-5163
rick.caldeira@sfgov.org | www.sfbos.org

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Conor Johnston

Office of Supervisor London Breed

415-554-6783

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or visit www.londonbreed.org

From: Johnston, Conor (BOS)

Sent: Tuesday, April 01, 2014 5:08 PM

To: BOS Legislation

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Thank you.

Conor Johnston

Office of Supervisor London Breed

415-554-6783

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

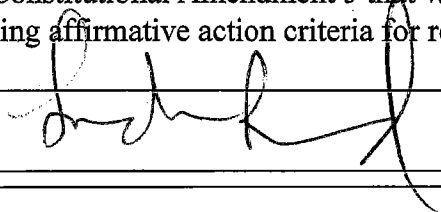
Breed; Campos

Subject:

Urging the California State Legislature to Pass Senate Constitutional Amendment 5 and Send It to the Voters

The text is listed below or attached:

Resolution urging the California State Legislature to pass Senate Constitutional Amendment 5 that would, with voter approval, amend the State Constitution and overturn the ban on using affirmative action criteria for recruitment and admissions to state institutions of higher education.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

140321