


**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: February 25, 2016

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and  
Neighborhoods Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No: 15-0002-S129  
Assignment No: 16-02-0143

SUBJECT: Resolution (Koretz-Wesson) to SUPPORT action by President to appoint, and  
U.S. Senate to confirm, a Supreme Court Justice.

CLA RECOMMENDATION: Adopt Resolution (Koretz-Wesson) to include in the City's 2015-  
2016 Federal Legislative Program, SUPPORT for action by the President to appoint, and the U.S.  
Senate to confirm, a U.S. Supreme Court Justice.

SUMMARY

Resolution (Koretz-Wesson), introduced February 19, 2016, reports that the discussion over filling the recently vacated United States Supreme Court seat has shifted from usual party disputes over a nominee's credentials to lawmakers and presidential candidates making the unprecedented demand that the seat should remain empty until the next President comes into office. On February 23, 2016, U.S. Senate leaders announced that they would not meet with any of the nominees being considered to replace Justice Antonin Scalia, and U.S. Senate Judiciary Committee Chairman and concurring members officially confirmed their intention to not hold any confirmation hearings. The Resolution states that if Scalia's seat is left vacant, the Supreme Court would have only eight sitting justices for eleven months or more by the time the new President has been inaugurated. Currently, the Supreme Court is in the middle of its term, and it is in the process of reviewing a number of high-profile cases. If the vote on a case ends in a four-to-four tie, the lower-court decision being reviewed continues to stand in the particular court's jurisdiction and has no binding effect on the rest of the nation. The Resolution therefore requests that the City support action by the President to appoint, and the U.S. Senate to confirm, a Supreme Court Justice.

BACKGROUND

Historically, there has not been a recorded instance of the President failing to nominate or the U.S. Senate failing to confirm a nominee during a presidential election year solely because of the impending election. Of the eight recorded election-year nominations since 1900, six of those nominees were confirmed. Even in the other two cases in 1956 and 1968, the Supreme Court seat was not left vacant, as it would be if the U.S. Senate continues to object to considering a replacement for Scalia. Furthermore, the U.S. Senate has never taken more than 125 days to vote on a successor from the time of nomination, and on average, a nominee has either been confirmed, rejected or withdrawn in 25 days.

The U.S. Supreme Court is currently reviewing a number of high-profile cases that have the potential to affect nationwide change. These are some of the issues being considered in pending cases:

- Voting rights: whether state and municipal voting districts should be drawn based on the number of eligible voters, rather than total population, which includes non-citizens
- Labor unions: whether public employees in 23 states and the District of Columbia should be obligated to pay union dues for the cost of collective bargaining, even if they disagree with union demands
- Immigration: whether the implementation of President's immigration plan, which would shield more than 4 million undocumented immigrants from deportation, should be allowed to continue
- Contraception: whether religious non-profits, including charities, schools and hospitals, should be exempt from the Affordable Care Act's mandate that employers pay for contraceptives as part of standard health insurance plans
- Abortion: whether a Texas law that imposes new burdensome restrictions on doctors and facilities performing abortions should be allowed to stand
- Affirmative action: whether university admissions programs should be allowed to take race into consideration



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Deborah Choi  
Analyst

Attachment: 1. Resolution (Koretz-Wesson)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the death of Justice Antonin Scalia on February 20, 2016 has created a vacancy on the United States Supreme Court; and

WHEREAS, the discussion over filling the Supreme Court vacancy has shifted from the usual party disputes over a nominee's credentials to lawmakers and presidential candidates making the unprecedented demand that the seat should remain empty until the next President comes into office; and

WHEREAS, if the seat is left vacant, the Supreme Court would be left with eight justices for 11 months or more by the time the new President has been inaugurated; and

WHEREAS, the Supreme Court is in the middle of its term, and it is in the process of reviewing a number of high-profile cases on subjects like immigration reform, union dues, healthcare reform and abortion; and

WHEREAS, if the vote on a case ends in a four-to-four tie, the lower-court decision being reviewed continues to stand in the particular court's jurisdiction and has no binding effect on the rest of the nation; and

WHEREAS, the President has indicated that he will nominate someone who has broad appeal to both political parties;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 Federal Legislative Program SUPPORT for action by the President to appoint, and the U.S. Senate to confirm, a Supreme Court Justice as soon as possible.

PRESENTED BY:



PAUL KORETZ  
Councilmember, 5<sup>th</sup> District



SECONDED BY:

