

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 1253

Introduced by Senator Steinberg
(Coauthors: Senators Leno and Lieu)
(Coauthor: Assembly Member Quirk-Silva)

February 20, 2014

An act to amend Sections 101, 303.5, 9002, 9004, 9005, 9014, 9033, 9034, 9051, 9082.7, 9094.5, ~~and~~ 9604, *and 18621* of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1253, as amended, Steinberg. Initiative measures.

(1) Under existing law, the text of a proposed initiative measure is required to be submitted to the Attorney General for preparation of a circulating title and summary before the petition may be circulated for signatures. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to jointly develop an estimate of the fiscal impact of the initiative measure and to deliver that fiscal estimate to the Attorney General within 25 working days, except as specified, for inclusion in the circulating title and summary. Existing law further requires the Secretary of State, upon request of the proponents of an initiative measure, to review the provisions of the initiative measure and to comment on the provisions of the measure with respect to form and language clarity.

This bill would require the Attorney General, upon receipt of a request to prepare the circulating title and summary, to initiate a 30-day public review process for the proposed initiative measure, as specified. The bill would require that the fiscal estimate be prepared jointly by the

Department of Finance and the Legislative Analyst. The bill would require the estimate to be delivered to the Attorney General within 45 days of the date of receipt of the proposed initiative measure by the Attorney General instead of 25 working days from the receipt of the final version of the proposed initiative measure.

(2) Existing law requires the Attorney General to provide a ballot label and a ballot title for each measure to be submitted to the voters at a statewide election. Existing law requires the Attorney General to prepare a summary of the chief purposes and points of each statewide ballot measure as part of the ballot title.

This bill would impose specified requirements with respect to the ballot materials required to be prepared by the Attorney General.

(3) Existing law prohibits a petition for a proposed initiative or referendum measure from being circulated prior to the official summary date, and prohibits a petition with signatures on a proposed initiative measure from being filed with the county elections official later than 150 days from the official summary date.

This bill would extend the date that a petition with signatures on a proposed initiative measure is required to be filed with the county elections official to not later than 180 days from the official summary date.

(4) Existing law requires the Secretary of State to notify the proponents, and immediately transmit to the elections official or registrar of voters of every county or city and county in the state a certificate, when the Secretary of State has received from one or more elections officials or registrars a petition certified to have been signed by the requisite number of qualified voters.

This bill would instead require the Secretary of State to issue a notice of qualification. The bill would require the Secretary of State to issue a certificate identifying all of the measures for which he or she issued a notice of qualification for a given election, as specified.

(5) Under existing law, the Secretary of State is required to transmit copies of an initiative measure and its circulating title and summary to the Senate and the Assembly after the measure is certified to appear on the ballot for consideration by the voters. Existing law requires that each house of the Legislature assign the initiative measure to its appropriate committees, and that the committees hold joint public hearings on the subject of the proposed measure prior to the date of the election at which the measure is to be voted upon, as specified.

This bill would require the Secretary of State to transmit copies of the initiative measure and circulating title and summary to the Legislature after receiving a certification from the initiative proponents, signed under penalty of perjury, that they have collected 25% of the number of signatures needed to qualify the initiative measure for the ballot. The bill would require the appropriate committees of the Senate and Assembly to hold the joint public hearing on the subject of the measure not later than 131 days prior to the date of the election at which the measure is to be voted upon.

(6) Existing law requires the Secretary of State to disseminate the complete state ballot pamphlet over the Internet and to establish a process to enable a voter to opt out of receiving the state ballot pamphlet by mail. Existing law requires the Secretary of State to develop a program to utilize modern communications and information processing technology to enhance the availability and accessibility of information on statewide candidates and ballot initiatives, including making information available online as well as through other information processing technology.

This bill would require the Secretary of State to establish ~~a process~~ *processes* to enable a voter to receive the state ballot pamphlet in an electronic format instead of by mail. The bill would also require the Secretary of State to create an Internet Web site, or use other available technology, to consolidate information about each ballot measure in a manner that is easy for voters to access and understand. The Internet Web site would be required to include a summary of each ballot measure and to identify the donors and other sources of funding for the campaigns for and against each ballot measure.

(7) Existing law authorizes the proponents of a statewide initiative or referendum measure to withdraw the measure at any time before filing the petition with the appropriate elections official. Existing law also requires that state initiative petitions circulated for signature include a prescribed notice to the public.

This bill would authorize the proponents of a statewide initiative or referendum measure to have the measure withdrawn from the ballot at any time before the measure qualifies for the ballot. The bill would require a petition for a statewide initiative measure to contain additional prescribed language in its notice to the public describing the right of proponents to withdraw the measure from the ballot, as specified.

~~This bill would make it a crime, with a prescribed penalty, for a person to pay or offer to pay money or other valuable consideration to a~~

~~proponent of a statewide initiative or referendum measure to obtain the withdrawal of the measure. The bill would also make it a crime for a proponent of a statewide initiative or referendum measure to solicit or accept such a payment or offer of payment. By establishing a new crime, this bill would impose a state-mandated local program.~~

(8) Existing law makes certain activities relating to the circulation of an initiative, referendum, or recall petition a criminal offense.

The bill would make it a crime for a proponent of a statewide initiative measure to seek, solicit, bargain for, or obtain any money or thing of value of or from any person, firm, or corporation for the purpose of withdrawing an initiative petition after filing it with the appropriate elections official. By establishing a new crime, this bill would impose a state-mandated local program.

~~(8)~~

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Ballot Initiative Transparency Act.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) Initiative measures, also known as ballot measures or
5 propositions, allow California voters to participate directly in
6 lawmaking. California voters have enjoyed the right to enact laws
7 through the initiative process since 1911. However, many voters
8 find it difficult to understand the language of an initiative measure
9 and to learn who is behind an initiative measure.

10 (b) It is the intent of the Legislature in enacting this act to update
11 the initiative process, which is more than 100 years old, by doing
12 all of the following:

13 (1) Providing voters with more useful information so that they
14 are able to make an informed decision about an initiative measure.
15 Under this act, the Secretary of State would be required to give
16 voters one-stop access to a clear explanation of each measure and

1 information about the individuals and groups behind each measure.
2 This would give voters updated information about who is spending
3 large sums of money to support or oppose each initiative measure.
4 Voters would also be allowed to request an electronic copy of
5 ballot materials, thereby reducing the expenses of printing and
6 mailing.

7 (2) Providing a voter-friendly explanation of each initiative
8 measure. The act would require that ballot materials be drafted in
9 clear and impartial language.

10 (3) Identifying and correcting flaws in an initiative measure
11 before it appears on the ballot. Currently, proponents of an initiative
12 measure have few options to correct the language of an initiative
13 measure or to withdraw a petition for a proposed initiative measure,
14 even when flaws are identified. This act would give voters an
15 opportunity to comment on an initiative measure before the petition
16 is circulated for signatures. By extending the time for gathering
17 signatures, this act would give the Legislature the opportunity to
18 hold earlier public hearings to review initiative measures. This act
19 would also allow the proponents of an initiative measure to
20 withdraw the measure after the petition and signatures are
21 submitted to elections officials, but before the measure qualifies
22 for the ballot.

23 SEC. 3. Section 101 of the Elections Code is amended to read:

24 101. (a) Notwithstanding any other law, a state or local
25 initiative petition required to be signed by voters shall contain in
26 12-point type, before that portion of the petition for voters'
27 signatures, printed names, and residence addresses, the following
28 language:

29
30 "NOTICE TO THE PUBLIC

31
32 THIS PETITION MAY BE CIRCULATED BY A PAID
33 SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE
34 THE RIGHT TO ASK."

35
36 (b) A state initiative petition shall contain, in the same location
37 and type size described in subdivision (a), the following language:

38
39 "THE PROPONENTS OF THIS PROPOSED INITIATIVE
40 MEASURE HAVE THE RIGHT TO WITHDRAW THIS

PETITION AT ANY TIME BEFORE THE MEASURE
QUALIFIES FOR THE BALLOT.”

SEC. 4. Section 303.5 of the Elections Code is amended to read:

303.5. (a) “Ballot title” is the name of a statewide measure included in the ballot label and the ballot title and summary.

(b) “Ballot title and summary” means the summary of the chief purpose and points, including the fiscal impact summary, of any measure that appears in the state ballot pamphlet. The ballot title and summary shall include a statement of the measure’s fiscal impact. The ballot title and summary shall be not less than 25 words and not more than 150 words in length, not including the fiscal impact statement.

(c) (1) “Circulating title and summary” means the text that is required to be placed on a petition for signatures that is either one of the following:

(A) The summary of the chief purpose and points of a proposed initiative measure that affects the Constitution or laws of the state, and the fiscal impact of the proposed initiative measure.

(B) The summary of the chief purpose and points of a referendum measure that affects a law or laws of the state.

(2) The circulating title and summary shall be not less than 25 words and not more than 150 words in length, not including the fiscal impact summary.

SEC. 5. Section 9002 of the Elections Code is amended to read:

9002. (a) Upon receipt of a request from the proponents of a proposed initiative measure for a circulating title and summary, the Attorney General shall initiate a public review process for a period of 30 days by doing all of the following:

(1) Posting the text of the proposed initiative measure on the Attorney General’s Internet Web site.

(2) Promoting public participation by inviting on the Attorney General’s Internet Web site written public comments on the proposed initiative measure. The site shall accept written public comments for the duration of the public review period. Public comments may address perceived errors in the drafting of, or perceived unintended consequences of, the proposed initiative measure. The Attorney General shall transmit any written public

1 comments received during the public review period to the
2 proponents of the proposed initiative measure.

3 (b) During the public review period, the proponents of the
4 proposed initiative measure may submit amendments to the
5 measure.

6 (1) An amendment shall be submitted with a signed request by
7 all the proponents to prepare a circulating title and summary using
8 the amended language.

9 (2) An amendment shall be submitted to the Attorney General's
10 Initiative Coordinator located in the Attorney General's Sacramento
11 Office via United States Postal Service, alternative mail service,
12 or personal delivery. Only printed documents shall be accepted;
13 facsimile or email delivery shall not be accepted.

14 (3) The submission of an amendment shall not extend the period
15 to prepare the estimate required by Section 9005.

16 (4) An amendment shall not be accepted more than five days
17 after the public review period is concluded. However, a proponent
18 shall not be prohibited from proposing a new initiative measure
19 and requesting that a circulating title and summary be prepared
20 for that measure pursuant to Section 9001.

21 SEC. 6. Section 9004 of the Elections Code is amended to read:

22 9004. (a) Upon receipt of the text of a proposed initiative
23 measure, and after the public review period provided for in Section
24 9002, the Attorney General shall prepare a circulating title and
25 summary of the chief purposes and points of the proposed measure.
26 The circulating title and summary shall be not less than 25 words
27 and not more than 150 words in length. The Attorney General shall
28 also provide a unique numeric identifier for each proposed initiative
29 measure. The circulating title and summary shall be prepared in
30 the manner provided for the preparation of ballot titles and
31 summaries in Article 5 (commencing with Section 9050), the
32 provisions of which, in regard to the preparation, filing, and
33 settlement of ballot titles and summaries, are applicable to the
34 circulating title and summary.

35 (b) The Attorney General shall provide a copy of the circulating
36 title and summary and its unique numeric identifier to the
37 proponents and to the Secretary of State within 15 days after receipt
38 of the fiscal estimate or opinion prepared by the Department of
39 Finance and the Legislative Analyst pursuant to Section 9005. The

1 date the copy is delivered or mailed to the proponents is the
2 “official summary date.”

3 (c) Upon receipt of the circulating title and summary from the
4 Attorney General, the Secretary of State shall, within one business
5 day, notify the proponents and county elections official of each
6 county of the official summary date and provide a copy of the
7 circulating title and summary to each county elections official.
8 This notification shall also include a complete schedule showing
9 the maximum filing deadline, and the certification deadline by the
10 counties to the Secretary of State.

11 SEC. 7. Section 9005 of the Elections Code is amended to read:

12 9005. (a) The Attorney General, in preparing a circulating title
13 and summary for a proposed initiative measure, shall, in boldface
14 print, include in the circulating title and summary either the
15 estimate of the amount of any increase or decrease in revenues or
16 costs to the state or local government, or an opinion as to whether
17 or not a substantial net change in state or local finances would
18 result if the proposed initiative is adopted.

19 (b) The estimate as required by this section shall be made jointly
20 by the Department of Finance and the Legislative Analyst, who
21 shall deliver the estimate to the Attorney General so that he or she
22 may include the estimate in the circulating title and summary
23 prepared by him or her.

24 (c) The estimate shall be delivered to the Attorney General
25 within 45 days of the date of receipt of the proposed initiative
26 measure by the Attorney General, unless, in the opinion of both
27 the Department of Finance and the Legislative Analyst, a
28 reasonable estimate of the net impact of the proposed initiative
29 measure cannot be prepared within the 45-day period. In the latter
30 case, the Department of Finance and the Legislative Analyst shall,
31 within the 45-day period, give the Attorney General their opinion
32 as to whether or not a substantial net change in state or local
33 finances would result if the proposed initiative measure is adopted.

34 (d) A statement of fiscal impact prepared by the Legislative
35 Analyst pursuant to subdivision (b) of Section 12172 of the
36 Government Code may be used by the Department of Finance and
37 the Legislative Analyst in the preparation of the fiscal estimate or
38 the opinion.

39 SEC. 8. Section 9014 of the Elections Code is amended to read:

9014. A petition for a proposed initiative measure or referendum shall not be circulated for signatures before the official summary date. A petition with signatures on a proposed initiative measure shall be filed with the county elections official not later than 180 days from the official summary date, and a county elections official shall not accept a petition for the proposed initiative measure after that period. A petition for a proposed referendum measure shall be filed with the county elections officials not later than 90 days from the date the legislative bill was chaptered by the Secretary of State, and a county elections official shall not accept a petition for the proposed referendum after that period.

SEC. 9. Section 9033 of the Elections Code is amended to read:

9033. (a) When the Secretary of State has received from one or more elections officials or registrars a petition, certified as herein provided to have been signed by the requisite number of qualified voters, the Secretary of State shall forthwith notify the proponents and immediately transmit to the elections official or registrar of voters of every county or city and county in the state a notice of qualification showing this fact so that signature verification can be terminated. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by the Secretary of State of a certificate or certificates showing the petition to be signed by the requisite number of voters of the state. Any elections official shall, upon receipt of the copy, file the notification for record in that office.

(b) On the 131st day before an election at which an initiative measure is to be voted upon, the Secretary of State shall issue a certificate identifying each initiative measure for which he or she issued a notice of qualification, as required by subdivision (a), on or before that date.

SEC. 10. Section 9034 of the Elections Code is amended to read:

9034. (a) The proponents of a proposed initiative measure shall submit a certification, signed under penalty of perjury, to the Secretary of State immediately upon the collection of 25 percent of the number of signatures needed to qualify the initiative measure for the ballot.

(b) Upon the receipt of the certification required by subdivision (a), the Secretary of State shall transmit copies of the initiative

1 measure, together with the circulating title and summary as
2 prepared by the Attorney General pursuant to Section 9004, to the
3 Senate and the Assembly. Each house shall assign the initiative
4 measure to its appropriate committees. The appropriate committees
5 shall hold joint public hearings on the subject of the measure not
6 later than 131 days before the date of the election at which the
7 measure is to be voted upon.

8 (c) This section shall not be construed as authority for the
9 Legislature to alter the initiative measure or prevent it from
10 appearing on the ballot.

11 SEC. 11. Section 9051 of the Elections Code is amended to
12 read:

13 9051. (a) (1) The ballot title and summary may differ from
14 the legislative, circulating, or other title and summary of the
15 measure and shall be not less than 25 words and not more than
16 150 words in length, not including the fiscal impact statement.

17 (2) The ballot title and summary shall include a summary of the
18 Legislative Analyst's estimate of the net state and local government
19 fiscal impact prepared pursuant to Section 9087 of this code and
20 Section 88003 of the Government Code.

21 (b) The ballot label shall not contain more than 75 words and
22 shall be a condensed version of the ballot title and summary
23 including the financial impact summary prepared pursuant to
24 Section 9087 of this code and Section 88003 of the Government
25 Code.

26 (c) In providing the ballot title and summary, the Attorney
27 General shall give a true and impartial statement of the purpose
28 of the measure in such language that the ballot title and summary
29 shall neither be an argument, nor be likely to create prejudice, for
30 or against the proposed measure. The ballot title and summary
31 shall also satisfy all of the following:

32 (1) Be written in clear and concise terms, understandable to the
33 average voter, and in an objective and nonpartisan manner,
34 avoiding the use of technical terms whenever possible.

35 (2) If the measure imposes or increases a tax or fee, the type
36 and amount of the tax or fee shall be described.

37 (3) If the measure repeals existing law in any substantial manner,
38 that fact shall be included.

39 (4) If the measure is contingent on the passage or defeat of
40 another measure or statute, that fact shall be included.

(d) The Legislature shall provide the Attorney General with sufficient funding for administrative and other support relating to preparation of the ballot title and summary for initiative measures, including, but not limited to, plain-language specialists.

(e) The Attorney General shall invite and consider public comment in preparing each ballot title and summary.

SEC. 12. Section 9082.7 of the Elections Code is amended to read:

9082.7. (a) The Secretary of State shall make available the complete state ballot pamphlet over the Internet.

(b) The Secretary of State shall create an Internet Web site, or use other available technology, to consolidate information about each ballot measure in a manner that is easy for voters to access and understand. The information shall include all of the following:

(1) A summary of the ballot measure's content.

~~(2) The sources of funding for~~ (A) *A list of each committee primarily formed or existing primarily to support or oppose the ballot measure, as described in Section 82047.5 of the Government Code, and a means to access information about the sources of contributions reported for each committee.*

~~(3) A statement identifying the 10 donors who have contributed the largest amounts to campaigns for and against a ballot measure. The statement~~

(B) *Information about the sources of contributions shall be updated as new information becomes available to the public pursuant to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).*

(C) (i) *If a committee identified in subparagraph (A) receives at least one million dollars (\$1,000,000) in contributions for an election, the Secretary of State shall also list the committee's top 10 contributors reported to the Fair Political Practices Commission pursuant to Section 84223 of the Government Code.*

(ii) *Notwithstanding paragraph (1) of subdivision (C) of Section 84223 of the Government Code, the Fair Political Practices Commission shall automatically provide the list of top 10 contributors, and any subsequent updates to that list, to the Secretary of State for purposes of compliance with this section.*

~~(4)~~

(3) Any other Internet Web site hyperlinks to other relevant information.

1 SEC. 13. Section 9094.5 of the Elections Code is amended to
2 read:

3 9094.5. (a) The Secretary of State shall establish ~~a process~~
4 *processes* to enable a voter to opt out of receiving by mail the state
5 ballot pamphlet prepared pursuant to Section 9081 and to instead
6 receive *either* the state ballot pamphlet in an electronic format *or*
7 *an electronic notification making the pamphlet available by means*
8 *of online access.* ~~This process~~ *These processes* shall become
9 effective only after the Secretary of State certifies that the state
10 has a statewide voter registration database that complies with the
11 federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et
12 seq.).

13 (b) ~~The process~~ *processes* described in subdivision (a) shall not
14 apply where two or more registered voters have the same postal
15 address unless each voter who shares the same postal address has
16 chosen to discontinue receiving the ballot pamphlet by mail.

17 (c) The Secretary of State shall also establish a procedure to
18 permit a voter to begin receiving the ballot pamphlet by mail again
19 after the voter has discontinued receiving it pursuant to subdivision
20 (a).

21 SEC. 14. Section 9604 of the Elections Code is amended to
22 read:

23 9604. (a) Notwithstanding any other law, any person may
24 engage in good faith bargaining between competing interests to
25 secure legislative approval of matters embraced in a statewide or
26 local initiative or referendum measure, and the proponents may,
27 as a result of these negotiations, withdraw the measure at any time
28 before filing the petition with the appropriate elections official.

29 (b) In addition to the procedure under subdivision (a), the
30 proponents of a statewide initiative or referendum measure may
31 withdraw the measure after filing the petition with the appropriate
32 elections official at any time before *the Secretary of State certifies*
33 *that the measure qualifies* ~~has qualified~~ for the ballot.

34 (c) Withdrawal of a statewide initiative or referendum measure
35 shall be effective upon receipt by the Secretary of State of a written
36 notice of withdrawal, signed by all proponents of the measure.

37 (d) Withdrawal of a local initiative or referendum measure shall
38 be effective upon receipt by the appropriate local elections official
39 of a written notice of withdrawal, signed by all proponents of the
40 measure.

1 ~~(e) The proponents of a statewide initiative or referendum~~
2 ~~measure shall not solicit or accept, and a person shall not offer or~~
3 ~~pay, any money or other valuable consideration to obtain the~~
4 ~~withdrawal of a statewide initiative or referendum measure from~~
5 ~~the ballot. A violation of this subdivision shall be subject to the~~
6 ~~same penalty as provided for in Section 18660.~~

7 *SEC. 15. Section 18621 of the Elections Code is amended to*
8 *read:*

9 18621. Any proponent of an initiative or referendum measure
10 or recall petition who seeks, solicits, bargains for, or obtains any
11 money or thing of value of or from any person, firm, or corporation
12 for the purpose of abandoning the same or stopping the circulation
13 of petitions concerning the same, or failing or neglecting or
14 refusing to file the measure or petition in the office of the elections
15 official or other officer designated by law within the time required
16 by law after obtaining the number of signatures required under the
17 law to qualify the measure or petition, *or withdrawing an initiative*
18 *petition after filing it with the appropriate elections official,* or
19 performing any act that will prevent or aid in preventing the
20 initiative, referendum, or recall proposed from qualifying as an
21 initiative or referendum measure, or resulting in a recall election
22 is punishable by a fine not exceeding five thousand dollars (\$5,000)
23 or by imprisonment pursuant to subdivision (h) of Section 1170
24 of the Penal Code for 16 months or two or three years, or in a
25 county jail not exceeding one year, or by both that fine and
26 imprisonment.

27 ~~SEC. 15.~~

28 *SEC. 16.* No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.