

S232642

No. _____

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

GOVERNOR EDMUND G. BROWN JR., MARGARET R. PRINZING,
and HARRY BEREZIN,

Petitioners,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO,

Respondent.

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION,
ANNE MARIE SCHUBERT, an individual and in her personal capacity,
and KAMALA HARRIS, in her official capacity as
Attorney General of the State of California,

Real Parties in Interest.

SUPREME COURT
JUDGE EDWARD M. LEAVELLE

FEB 25 2016

Deputy

Writ Regarding Order by the Sacramento County Superior Court,
Case No. 34-2016-80002293-CU-WM-GDS, Department 24,
Phone No.: (916) 874-6687, The Honorable Shelleyanne Chang, Presiding

**APPENDIX [VOL. II OF II]
TO EMERGENCY PETITION FOR WRIT OF MANDATE
AND REQUEST FOR IMMEDIATE STAY AND/OR
OTHER APPROPRIATE RELIEF;
MEMORANDUM OF POINTS AND AUTHORITIES**

**IMMEDIATE STAY REQUESTED – ELECTION MATTER
CRITICAL DATE: FEBRUARY 26, 2016**

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James C. Harrison, State Bar No. 161958
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Governor Edmund G. Brown Jr.,
Margaret R. Prinzing, and Harry Berezin

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Margaret R. Prinzing, and Harry Berezin

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1	2/11/16	Verified Petition for Writ of Mandate	Vol. I, APP001
1	2/11/16	<ul style="list-style-type: none"> Exhibit A to Verified Petition for Writ of Mandate: Real Parties in Interest's December 22, 2015 submission to Attorney General's Office of "The Justice and Rehabilitation Act" 	Vol. I, APP014
1	2/11/16	<ul style="list-style-type: none"> Exhibit B to Verified Petition for Writ of Mandate: Real Party in Interest's amended initiative measure "The Public Safety and Rehabilitation Act of 2016" submitted to the Attorney General's Office on January 26, 2016 	Vol. I, APP042
1	2/11/16	<ul style="list-style-type: none"> Exhibit C to Verified Petition for Writ of Mandate: California Bill Analysis, Senate Floor, 2013-2014 Regular Session regarding Senate Bill 1253, August 22, 2014 	Vol. I, APP057
2	2/17/16	Memorandum of Points and Authorities in Support of Verified Petition for Writ of Mandate	Vol. I, APP061
3	2/17/16	Declaration of Thomas W. Hiltachk in Support of Verified Petition for Writ of Mandate	Vol. I, APP083
3	2/17/16	<ul style="list-style-type: none"> Exhibit A to the Declaration of Thomas W. Hiltachk: Article titled "How Jerry Brown's parole initiative came together" 	Vol. I, APP087
4	2/17/16	Petitioners' Request for Judicial Notice in Support of Verified Petition for Writ of Mandate	Vol. I, APP090
4	2/17/16	<ul style="list-style-type: none"> Exhibit A to Petitioners' Request for Judicial Notice: Real Parties in Interest's December 22, 2015 submission to Attorney General's Office of "The Justice and Rehabilitation Act" 	Vol. I, APP095

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4	2/17/16	<ul style="list-style-type: none"> Exhibit B to Petitioners' Request for Judicial Notice: Real Party in Interest's amended initiative measure "The Public Safety and Rehabilitation Act of 2016" submitted to the Attorney General's Office on January 26, 2016 	Vol. I, APP123
4	2/17/16	<ul style="list-style-type: none"> Exhibit C to Petitioners' Request for Judicial Notice: California Bill Analysis, Senate Floor, 2013-2014 Regular Session regarding Senate Bill 1253, August 22, 2014 	Vol. I, APP138
4	2/17/16	<ul style="list-style-type: none"> Exhibit D to Petitioners' Request for Judicial Notice: California Bill Analysis, Assembly Committee on Elections and Redistricting, June 17, 2014 	Vol. I, APP142
4	2/17/16	<ul style="list-style-type: none"> Exhibit E to Petitioners' Request for Judicial Notice: Letter from California Common Cause dated March 14, 2014 supporting SB 1253 	Vol. I, APP155
5	2/22/16	Verified Answer of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP156
6	2/22/16	Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP167
7	2/22/16	Declaration of Harry Berezin in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP189
8	2/22/16	Declaration of Scott Budnick in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP193
9	2/22/16	Declaration of Elizabeth Calvin in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP199
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10	2/22/16	<ul style="list-style-type: none"> Exhibit A to the Declaration of Fred Kimball: Excerpts from the Secretary of State's 2016 Statewide Initiative Guide, Appendix A: Suggested Deadlines to Qualify Initiatives 	Vol. II, APP208
11	2/22/16	Declaration of Margaret R. Prinzing in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP217
11	2/22/16	<ul style="list-style-type: none"> Exhibit A to the Declaration of Margaret Prinzing: Screenshot of Attorney General's Active Initiative webpage 	Vol. II, APP220
11	2/22/16	<ul style="list-style-type: none"> Exhibit B to the Declaration of Margaret Prinzing: Cover letter re Submission of Amendment to Statewide Initiative Measure – The Justice and Rehabilitation Act 	Vol. II, APP221
12	2/22/16	Request for Judicial Notice; Declaration of Michael Narciso in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate	Vol. II, APP225
12	2/22/16	<ul style="list-style-type: none"> Exhibit A to the Declaration of Michael Narciso: Senate Bill No. 1253, as amended in Assembly on July 1, 2014 	Vol. II, APP228
12	2/22/16	<ul style="list-style-type: none"> Exhibit B to the Declaration of Michael Narciso: Senate Bill No. 1253, as introduced on February 20, 2014 	Vol. II, APP246
12	2/22/16	<ul style="list-style-type: none"> Exhibit C to the Declaration of Michael Narciso: Senate Bill No. 1253, as amended in Assembly on August 4, 2014 	Vol. II, APP260
13	2/22/16	Attorney General's Opposition to Verified Petition for Writ of Mandate	Vol. II, APP283
14	2/23/16	Memorandum of Points and Authorities in Reply to Opposition	Vol. II, APP304
15	2/24/16	Order and Judgment After Hearing on Petition for Writ of Mandate	Vol. II, APP313
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17	2/24/16	Declaration of James C. Harrison	Vol. II, APP317

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9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
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17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**VERIFIED ANSWER OF REAL PARTIES
IN INTEREST TO VERIFIED PETITION
FOR WRIT OF MANDATE**

FILED
ENDORSED
2016 FEB 22 PM 2:35
COURT HOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

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28
VERIFIED ANSWER OF REAL PARTIES IN INTEREST TO
VERIFIED PETITION FOR WRIT OF MANDATE

1 Real Parties in Interest Margaret R. Prinzing and Harry Berezin (“Real Parties”) answer
2 Petitioners’ Verified Petition for Writ of Mandate as follows:

3 1. Real Parties admit that Respondent Attorney General Harris (“Respondent”) will
4 soon issue a title and summary for the Public Safety and Rehabilitation Act of 2016 (“the Act”) unless
5 prohibited by this Court. Real Parties deny the remaining allegations in paragraph 1.

6 2. Real Parties admit that Respondent will issue a title and summary on or before
7 February 25, 2016, but deny that Respondent provided no public review period. Real Parties deny the
8 remaining allegations in paragraph 2.

9 3. Real Parties deny the existence of any error and deny the remaining allegations
10 in paragraph 3.

11 4. Real Parties deny the allegations in the first sentence of paragraph 4 on the basis
12 that they constitute a legal conclusion to which no response is required. Real Parties aver that the
13 Governor’s public pronouncements and the Act speak for themselves and on that basis deny the
14 allegations in the second sentence of paragraph 4. Real Parties admit that Petitioners are not aware of
15 whether Governor Brown had any connection or role with Real Parties’ December 22, 2015
16 submission, and deny the remaining allegations in paragraph 4.

17 5. Real Parties deny the allegations in paragraph 5.

18 6. Real Parties admit the allegations in paragraph 6.

19 7. Real Parties aver that SB 1253 and Elections Code section 9002 speak for
20 themselves and on that basis deny the allegations in paragraph 7.

21 8. Real Parties aver that SB 1253 and Elections Code section 9002 speak for
22 themselves and on that basis deny the allegations in paragraph 8. Real Parties deny all remaining
23 allegations in paragraph 8.

24 9. Real Parties deny the allegations in paragraph 9 on the basis that they constitute
25 legal conclusions to which no response is required.

26 10. Real Parties deny the allegation in the first sentence of paragraph 10 on the basis
27 that it constitutes a legal conclusion to which no response is required. Real Parties aver that the
28

1 provisions of the Act as originally submitted and as amended speak for themselves and on that basis
2 deny the remaining allegations in paragraph 10. Real Parties deny all remaining allegations in
3 paragraph 10.

4 11. Real Parties admit the first and second sentences in paragraph 11, but deny the
5 allegations in the third sentence in paragraph 11 on the basis that they constitute legal conclusions to
6 which no response is required.

7 12. Real Parties deny the allegations in paragraph 12 on the basis that they
8 constitute legal conclusions to which no response is required.

9 13. Real Parties deny the allegations in paragraph 13 on the basis that they
10 constitute legal conclusions to which no response is required.

11 14. Real Parties admit that Anne Marie Schubert is the elected District Attorney of
12 the County of Sacramento but lack information or belief to answer the remaining allegations in
13 paragraph 14 and on that basis deny each and every one of them.

14 15. Real Parties lack information or belief to answer the allegations in paragraph 15
15 and on that basis deny each and every one of them.

16 16. Real Parties admit that Kamala Harris is the Attorney General of California.
17 Real Parties aver that the Elections Code speaks for itself and on that basis deny the allegations in the
18 second and third sentences of paragraph 16. Real Parties aver that Petitioners' Petition speaks for itself
19 and on that basis deny the remaining allegations in paragraph 16.

20 17. Real Parties admit the allegations in paragraph 17.

21 18. Real Parties admit the allegations in paragraph 18.

22 19. Real Parties lack information or belief to answer the allegations in paragraph 19
23 and on that basis deny each and every one of them.

24 20. Real Parties aver that the Petition and the statutes referenced in paragraph 20
25 speak for themselves and that the allegations constitute legal conclusions to which no response is
26 required and on that basis deny the allegations in paragraph 20.

1 21. Real Parties aver that Code of Civil Procedure section 1086 speaks for itself and
2 on that basis deny the allegation in the first sentence of paragraph 21. Real Parties lack information or
3 belief about whether Petitioners are registered voters of the State of California and on that basis deny
4 the allegation. Real Parties deny the remaining allegations in paragraph 21 on the basis that they
5 constitute legal conclusions to which no response is required.

6 22. Real Parties deny the allegations in paragraph 22.

7 23. Real Parties admit the allegation in the first sentence of paragraph 23. Real
8 Parties aver that Elections Code section 9002 speaks for itself and on that basis deny the allegations in
9 the second sentence of paragraph 23. Real Parties deny the remaining allegations in paragraph 23 on
10 that basis that they constitute legal conclusions to which no response is required.

11 24. Real Parties admit the allegations in paragraph 24.

12 25. Real Parties aver that the Act and Proposition 21 speak for themselves and on
13 that basis deny the allegations in paragraph 25. Real Parties deny the remaining allegations in
14 paragraph 27.

15 26. Real Parties admit that they filed an amendment to initiative number 15-0121 on
16 January 25, 2016 and admit that the measure is titled “The Public Safety and Rehabilitation Act of
17 2016.” Respondents deny the remaining allegations in paragraph 26.

18 27. Real Parties aver that the Act speaks for itself and on that basis deny the
19 allegations in paragraph 27.

20 28. Real Parties aver that the Act speaks for itself and on that basis deny the
21 allegations in paragraph 28. Real Parties also deny the allegations in paragraph 28 to the extent that
22 they constitute legal conclusions to which no response is required.

23 29. Real Parties deny the allegations in paragraph 29 on the basis that they are legal
24 conclusions to which no response is required.

25 30. Real Parties deny the allegations in the first sentence of paragraph 30, and aver
26 that Elections Code section 9004 speaks for itself and on that basis deny the allegations in the second
27 sentence of paragraph 30. Real Parties admit the third sentence in paragraph 30.
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31. Real Parties deny the allegations in paragraph 31 on the basis that it is a legal conclusion to which no response is required.

32. Real Parties admit that Respondent Attorney General will soon issue the circulation title and summary to the proponents of initiative no. 15-0121 unless prohibited from doing so, and admit that this will allow proponents to circulate the measure. Real Parties deny the remaining allegations in paragraph 32.

33. Real Parties incorporate by reference the answers in paragraphs 1 through 32 above.

34. Real Parties aver that Elections Code section 9002 speaks for itself and on that basis deny the allegation in paragraph 34.

35. Real Parties admit the allegations in the first sentence of paragraph 35. Real Parties aver that the bill analysis referenced in paragraph 35 speaks for itself and on that basis deny the remaining allegations in paragraph 35.

36. Real Parties deny the allegations in paragraph 36 on the basis that they are legal conclusion to which no response is required.

37. Real Parties deny the allegation in paragraph 37 on the basis that it is a legal conclusion to which no response is required.

38. Real Parties deny the allegations in paragraph 38.

39. Real Parties deny the allegation in paragraph 39.

40. Real Parties incorporate by reference the answers in paragraphs 1 through 39 above.

41. Real Parties deny the allegation in paragraph 41 on the basis that is a legal conclusion to which no response is required.

42. Real Parties deny the allegations in paragraph 42.

43. Real Parties deny the allegation in paragraph 43.

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AFFIRMATIVE DEFENSES

The Verified Petition for Writ of Mandate is drafted in conclusory and often vague terms, and Real Parties cannot anticipate all affirmative defenses that may be applicable. Real Parties therefore reserve the right to assert additional affirmative defenses. In the meantime, Real Parties allege the following separate affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure to State Cause of Action)

The Petition and each cause of action fail to allege facts sufficient to constitute a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Lack of Standing)

Petitioners lack standing to bring this action against Respondents because they do not have the kind of direct or beneficial interest in the case that confers standing upon them.

THIRD AFFIRMATIVE DEFENSE

(Substantial Compliance)

Respondents and Real Parties have fully or substantially complied with sections 9002 and 9004 of the Elections Code and all duties relevant to this litigation. Petitioners' causes of action therefore fail under the doctrine of substantial compliance.

FOURTH AFFIRMATIVE DEFENSE

(Nonjusticiability)

Real Parties assert that there is no justiciable controversy that may be adjudicated by this Court.

FIFTH AFFIRMATIVE DEFENSE

(Separation of Powers)

Real Parties assert that this action and the relief Petitioners seek is barred by the separation of powers doctrine.

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SIXTH AFFIRMATIVE DEFENSE

(Laches)

If there has been any event entitling Petitioners to any relief, which Real Parties deny, Petitioners have foregone any and all causes of action that they otherwise might have against Respondents by reason of their delay in bringing this action.

SEVENTH AFFIRMATIVE DEFENSE

(Pre-Election Review)

This Petition, or parts thereof, is not appropriate for pre-election judicial review.

EIGHTH AFFIRMATIVE DEFENSE

(Complaint Subject to Anti-SLAPP Motion)

The Petition and all of its causes of action are subject to a motion to strike under section 425.16 of the Code of Civil Procedure, because they interfere with Real Parties' right of free speech and plaintiffs cannot establish that they will prevail.

NINTH AFFIRMATIVE DEFENSE

(Ripeness)

The Petition and all of its causes of action are not ripe because Respondents will be able to prepare a title and summary within the statutorily prescribed time period.

TENTH AFFIRMATIVE DEFENSE

(Public Harm)

Delay in issuance of the title and summary for the Act will cause public harm if the voters are blocked from considering this measure at the November 2016 election.


WHEREFORE, Real Parties pray for relief as follows:

1. That Petitioners take nothing by reason of the petition.
2. That judgment be entered in favor of Respondents.
3. That Respondents be awarded attorneys' fees and costs of suit.
4. For such other and further relief as the Court deems just and appropriate.

1 Dated: February 22, 2016

Respectfully submitted,

2 James C. Harrison
3 REMCHO, JOHANSEN & PURCELL, LLP

4
5 By: 
6 James C. Harrison

7 Attorneys for Real Parties in Interest
8 Margaret R. Prinzing and Harry Berezin
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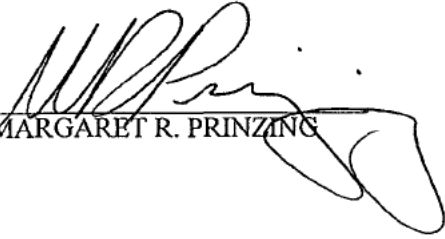
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VERIFICATION

I, Margaret R. Prinzing, declare:

I am one of the Real parties in interest in this matter. I have read the Verified Answer of Real Parties in Interest to Verified Petition for Writ of Mandate. The same is true of my own knowledge, except as to matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 22nd day of February, 2016, at San Leandro, California.


MARGARET R. PRINZING

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Verified Answer of Real Parties in Interest to**
7 **Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

9 Thomas W. Hiltachk
10 Brian T. Hildreth
11 Bell, McAndrews & Hiltachk, LLP
12 455 Capitol Mall, Suite 600
13 Sacramento, CA 95814
14 Phone: (916) 442-7757
15 Email: tomh@bmhlaw.com
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*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

13 Paul E. Stein
14 Deputy Attorney General
15 Office of the Attorney General
16 455 Golden Gate Avenue, Suite 11000
17 San Francisco, CA 94102
18 Phone: (415) 703-5500
19 Email: paul.stein@doj.ca.gov

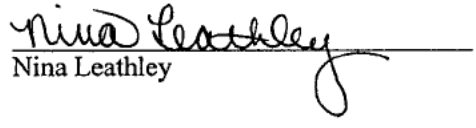
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- 17 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
18 envelope or package addressed to the person(s) at the address above and
19 depositing the sealed envelope with the United States Postal Service, with
20 the postage fully prepaid.
21 placing the envelope for collection and mailing, following our ordinary
22 business practices. I am readily familiar with the business's practice for
23 collecting and processing correspondence for mailing. On the same day
24 that correspondence is placed for collection and mailing, it is deposited in
25 the ordinary course of business with the United States Postal Service,
26 located in San Leandro, California, in a sealed envelope with postage
27 fully prepaid.
28 **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.
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package addressed to the persons at the addresses listed and providing them to a
professional messenger service for service.

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- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
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I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268150-4)

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9 Attorneys for Real Parties in Interest
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25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**OPPOSITION OF REAL PARTIES IN
INTEREST TO VERIFIED PETITION
FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016

Time: 3:30 p.m.

Dept.: 24

(The Honorable Shelleyanne Chang)

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28
OPPOSITION OF REAL PARTIES IN INTEREST TO
VERIFIED PETITION FOR WRIT OF MANDATE

ENDORSED

2016 FEB 22 PM 2:36

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OF CALIFORNIA
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Costa v. Super. Ct.13
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Manduley v. Superior Court6
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Pala Band of Mission Indians v. Bd. of Supervisors3
 (1997) 54 Cal.App.4th 565

People v. Harrison5
 (1989) 48 Cal.3d 321

Santa Clara County Attys. Assn. v. Woodside3
 (1994) 7 Cal.4th 525, superseded by statute on other grounds in
Coachella Valley Mosquito and Vector Control Dist. v.
Cal. Public Employment Relations Bd. (2005) 35 Cal.4th 1072

Senate of the State of Cal. v. Jones5
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Yes on 25, Citizens for an On-Time Budget v. Super. Ct.4
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CALIFORNIA CONSTITUTION:

Article XIII B

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§ 13 (Prop. 10)10

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1 usually ministerial duty upon the part of the respondent, and a clear, present and beneficial right
2 belonging to the petitioner in the performance of that duty. (*Santa Clara County Counsel Attys.*
3 *Assn. v. Woodside* (1994) 7 Cal.4th 525, 539-540, internal quotation marks and citation omitted.)¹ The
4 duty on the part of the Attorney General that petitioners allege is being violated is anything but clear
5 or ministerial. That fact also negates any relief for petitioners under Elections Code section 13314(a),
6 which requires them to prove that a “neglect of duty has occurred, or is about to occur.”

7 More importantly, petitioners – a registered voter and an association of district
8 attorneys – have failed to show that they have a clear, present, and beneficial right to the performance
9 of any duty. The only harm they allege is that they were not given an opportunity to participate in a
10 public comment period about the amendments to real parties’ measure. As will be demonstrated
11 below, however, the public comment period does not confer a “right” on petitioners, but was instead
12 designed as a tool for initiative proponents to use in crafting ballot measures that ultimately may be
13 placed before voters.

14 These well-established principles of mandate law have heightened significance in the
15 context of the initiative process. The people’s right of initiative is “one of the most precious rights of
16 our democratic process,” and it is the duty of the courts “to jealously guard these powers and construe
17 the relevant constitutional provisions liberally in favor of the people’s right to exercise the powers of
18 initiative. . . .” (*Pala Band of Mission Indians v. Bd. of Supervisors* (1997) 54 Cal.App.4th 565, 574,
19 internal quotation marks and citations omitted; *Amador Valley Joint Union High School Dist. v. State*
20 *Bd. of Equalization* (1978) 22 Cal.3d 208, 232 [the initiative is a “legislative battering ram” such that
21 courts may “dull or blunt its force only for reasons that are constitutionally mandated . . .”].)
22 Because petitioners seek relief that would effectively ensure that voters would have no opportunity to
23 consider this measure in 2016,² this Court should resolve all reasonable doubts in favor of accepting
24 the amendments submitted by the proponents of this initiative.

25
26 ¹ Superseded by statute on other grounds in *Coachella Valley Mosquito and Vector Control Dist. v.*
Cal. Public Employment Relations Bd. (2005) 35 Cal.4th 1072.

27 ² See Declaration of Fred Kimball, ¶¶ 3-8.
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1 In deciding whether neglect of a ministerial duty has occurred, the Court should also
2 accord deference to the Attorney General’s determination that the amendments accepted for filing
3 were “reasonably germane to the theme, purpose, or subject of the initiative measure as originally
4 proposed.” (Elec. Code, § 9002(b).) Courts have long presumed the accuracy of, and granted
5 deference to, the Attorney General in determining the chief purpose and points of a proposed initiative
6 pursuant to section 9051 of the Elections Code. (*Yes on 25, Citizens for an On-Time Budget v. Super.*
7 *Ct.* (2010) 189 Cal.App.4th 1445, 1453 [“[i]f reasonable minds differ as to its sufficiency, the title and
8 summary prepared by the Attorney General must be upheld . . . and [o]nly in a clear case should a title
9 [and summary] so prepared be held insufficient.”], internal citations omitted.) The same deference
10 should apply here, given that both statutes grant authority to, and indeed require, the Attorney General
11 to review and determine the subject of an initiative.

12 **ARGUMENT**

13 **I. THE AMENDMENTS TO THE MEASURE ARE REASONABLY GERMANE**
14 **TO THE ORIGINAL VERSION’S THEME, PURPOSE, OR SUBJECT**

15 **A. Elections Code Section 9002 Applies the Single Subject Test to Amendments**

16 Elections Code section 9002³ permits substantive amendments that are reasonably
17 germane to the theme, purpose, or subject of the initiative measure as originally proposed. This
18 language clearly echoes well-established case law regarding the single subject rule, which requires the
19 various provisions of a bill to be reasonably germane to the subject or purpose of the measure. (*See,*
20 *e.g., Legislature v. Eu* (1991) 54 Cal.3d 492, 512 [“[A]n initiative measure does not violate the
21 single-subject requirement if, despite its varied collateral effects, all of its parts are reasonably
22 germane to each other, and to the general purpose or object of the initiative”], emphasis and internal
23 quotation marks omitted, citing *Brosnahan v. Brown* (1982) 32 Cal.3d 236, 245.) Indeed, in
24 describing the single subject rule, the California Supreme Court has used language almost identical to
25 that included in section 9002. (*See, e.g., Californians for an Open Primary v. McPherson* (2006)

26
27 ³ Unless otherwise stated, all further statutory references are to the Elections Code.

1 38 Cal.4th 735, 764 [“reasonably germane to a common theme, purpose, or subject”]; *Senate of the*
2 *State of Cal. v. Jones* (1999) 21 Cal.4th 1142, 1158 [“reasonably germane to a common theme or
3 purpose”].) By adopting language drawn from the single subject rule, the Legislature made clear its
4 intent to incorporate the courts’ liberal interpretation of that rule in favor of the right of initiative in
5 general. (See *Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 19, quoting *Harris v. Reynolds* (1859)
6 13 Cal. 514, 518 [“The rule of construction of statutes is plain. When they make use of words and
7 phrases of a well-known and definitive sense in the law, they are to be received and expounded in the
8 same sense in the statute.”].) The Legislature, of course, “is deemed to be aware of statutes and
9 judicial decisions already in existence, and to have enacted or amended a statute in light thereof.”
10 (*People v. Harrison* (1989) 48 Cal.3d 321, 329.) The Legislature was clearly aware that California
11 courts have long held that “the single-subject requirement should not be interpreted in an unduly
12 narrow or restrictive fashion that would preclude the use of the initiative process to accomplish
13 comprehensive, broad-based reform in a particular area of public concern.” (*Senate v. Jones, supra*,
14 21 Cal.4th at 1157.) By adopting the “reasonably germane” language and enlarging it to allow
15 amendments that are germane not only to the initiative’s subject, but its “theme, purpose, or subject,”
16 the Legislature clearly signaled its intent to allow a broad range of amendments.

17 Despite the Legislature’s nearly verbatim reference to the single subject rule, and its
18 common purpose, petitioners argue that the liberal construction afforded under that rule does not apply
19 here, because under section 9002, the amendments must be reasonably germane to the theme, purpose,
20 or subject of the *original* measure, which petitioners construe very narrowly. (Petitioners’
21 Memorandum of Points and Authorities [“Pet. Mem.”] at 7.) Petitioners miss the point. The test is the
22 same regardless of whether it is applied to the original measure or the measure as amended. In each
23 case, the question is whether the legislation combines wholly unrelated provisions, thereby forcing a
24 single vote on matters that should be voted on separately. Thus, in the case of amendments, the test is
25 whether the amendments are reasonably germane to the other provisions of the measure and to its
26 theme, purpose, or subject.

1 the newly-added crimes did not “bear an obvious relationship to juvenile or gang offenders,” the Court
2 concluded that “[t]he circumstance that the Three Strikes provisions affect adults in addition to
3 juveniles and gang members does not mean that these provisions are not reasonably germane to the
4 purpose of the initiative.” (*Id.* at 577-578.) “[I]t is well-established that an initiative may have
5 “collateral effects” without violating the single-subject rule.” (*Id.* at 578, quoting *Kennedy*
6 *Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 254-255.)

7
8 **C. The Amendments Further the Original Measure’s Purposes of Rehabilitation**
9 **and Public Safety**

10 The measure at issue here is narrower in scope than either Proposition 8 or
11 Proposition 21. The purpose of the measure, as originally filed, was to “ensure that California’s
12 juvenile and criminal justice system resources are used wisely to rehabilitate and protect public safety”
13 and to ensure that our “juvenile and criminal justice systems effectively stop repeat offending and
14 improve public safety.” (Pet. RJN, Exh. A, §§ 2-3.)” Its original title, “The Justice and Rehabilitation
15 Act,” reflects these purposes.

16 The measure required a judge, rather than a prosecutor, to determine whether a juvenile
17 age 14 or older should be tried in adult court or juvenile court, and eliminated the ability of
18 prosecutors to bypass the juvenile court by filing criminal charges directly in adult criminal court.
19 (Pet. RJN, Exh. A, §§ 4-6.) Although these provisions apply to juveniles, they directly affect the adult
20 criminal justice system. In addition, the original measure included a provision regarding juvenile
21 records (*id.*, § 7), which applies to adults, and a provision that provided parole eligibility to adult
22 inmates who are convicted and sentenced to state prison. (*Id.*, § 8; *see also* Pen. Code, § 3051(b)(1)-
23 (3).) The parole provision expanded parole consideration to include inmates who were sentenced
24 under the Three Strikes law, thereby limiting the effect of Three Strikes punishments on adult inmates
25 granted parole by the Board of Parole Hearings. (Pet. RJN, Exh. A, § 8.)
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1 The amendments clearly relate to these provisions and further the purposes of the
2 measure as originally filed.⁴ The amended version, like the original measure, requires a judge, rather
3 than a prosecutor, to determine whether a juvenile age 14 or older should be tried in adult court or
4 juvenile court. Both versions eliminate the ability of prosecutors to bypass the juvenile court by filing
5 criminal charges directly in adult criminal court. (*Compare* Pet. RJN, Exh. A, §§ 4-6, with *id.*, Exh. B,
6 § 4.)

7 In addition, both versions address parole for adult offenders. The original measure
8 included a provision that expanded parole consideration to inmates who were sentenced under the
9 Three Strikes law. (*Id.*, Exh. A, § 8; *see also* Pen. Code, § 3051(b)(1)-(3).) After it became clear to the
10 proponents that many law enforcement groups, including district attorneys, would oppose parole
11 eligibility for violent offenders, they modified the parole provision to provide that inmates who have
12 served the full term for their primary offense are eligible for parole, but they limited this eligibility to
13 non-violent offenders. (Declaration of Scott Budnick [“Budnick Decl.”], ¶ 7.) Pursuant to this
14 provision, juveniles who are tried as adults would have the opportunity to earn credits for rehabilitation
15 and would be eligible for parole after completing the sentence for their primary offense. Parole, of
16 course, includes consideration of an inmate’s rehabilitation. Like Proposition 21, the fact that the
17 parole and credit provisions would apply to adults, in addition to juveniles who are tried as adults, does
18 not alter the fact that the provisions are germane to the goals of rehabilitation and public safety.

19 The other changes to the original version were also the result of significant outreach to
20 stakeholders interested in accomplishing these same purposes, including the Governor and several
21 district attorneys. They include: (1) eliminating the juvenile records provision; (2) authorizing the
22 Department of Corrections and Rehabilitation to award credits for rehabilitation, educational
23 achievement and good behavior; and (3) requiring the Department of Corrections and Rehabilitation to
24 certify that the regulations the Department adopts to implement the parole and credit provisions
25

26 _____
27 ⁴ Petitioners devote the final one-third of their brief to a description of the alleged impact of the
28 amendments on existing law. Although petitioners’ claims are exaggerated, real parties do not address
them here because they are not relevant to the legal question before the Court.

1 protect and enhance public safety. (Pet. RJN, Exh. B.) The proponents also amended the measure’s
2 findings to explain that these changes, like the ones proposed in the original measure, were intended to
3 “[p]rotect and enhance public safety” and “[s]top the revolving door of crime by emphasizing
4 rehabilitation, especially for juveniles.” (*Id.*, § 2.) These amendments are not only consistent with the
5 theme, purpose, or subject of the original measure, they directly advance the measure’s goals by
6 putting additional emphasis on rehabilitation and offering juveniles who are tried in the adult system
7 the opportunity to earn credits and to be eligible for parole.

8 In light of the broad construction that must be given to the “reasonably germane”
9 requirement of section 9002, there is no serious dispute that the amendments at issue bear a reasonable
10 and commonsense relationship to the goals of enhancing public safety and promoting the rehabilitation
11 of juvenile and adult offenders. On this basis alone the Court should deny petitioners’ writ.

12 **II. SB 1253’S AMENDMENT PROVISIONS WERE INTENDED TO AID PROPONENTS**
13 **BY ALLOWING BROAD AMENDMENTS**

14 **A. SB 1253 Was Intended to Permit Broad Substantive Amendments**

15 Even if some question remains from the plain meaning of section 9002 whether the
16 “reasonably germane” requirement should be construed broadly or narrowly, the legislative history of
17 SB 1253 makes clear that the Legislature intended to allow proponents to make broad amendments to
18 their measures after filing.

19 Prior to SB 1253, proponents were only allowed to make technical, nonsubstantive
20 changes to a measure within 15 days after filing with the Attorney General, without re-starting the
21 clock. (Former Elec. Code, § 9002 (2014).) After the 15-day period, if proponents discovered a
22 drafting error or wished to enlarge the scope of their measure in order to partner with others, their only
23 choice was to begin anew with another initiative. If they wished to withdraw their measure in order to
24 throw their support behind a similar initiative or legislative proposal, they could only do so prior to
25 submitting their petitions for signature verification. (Former Elec. Code, § 9604 (2014).) SB 1253
26 sought to remove these restrictions by adding a broad amendment process and allowing proponents to
27 withdraw a measure at any time prior to its qualification for the ballot. The purpose behind these
28

1 changes was to aid *proponents* by giving them opportunities that existing law denied them, not to
2 create a beneficial right that litigants could use to derail a measure they did not like.

3 The language and history of the bill demonstrate that the Legislature intended to allow
4 broad amendments, not limited ones as petitioners contend. First, nothing in SB 1253 prohibits an
5 amendment that adds a constitutional provision to a measure that originally included only statutory
6 language. Given the detailed nature of the California Constitution, proponents often find it necessary
7 to include constitutional amendments in their measures. (*See, e.g.*, Cal. Const., art. XIII B, § 13
8 (Prop. 10); art. XIII B, § 12 (Prop. 99).)

9 Second, an early version of SB 1253 only allowed proponents to “submit amendments
10 to the measure that further its purposes, as determined by the Attorney General.” (Real Parties in
11 Interest Request for Judicial Notice [“RPI RJN”], Exh. A at 7.) That language was modified, however,
12 on August 4, 2014, to its present form, which allows amendments “that are reasonably germane to the
13 theme, purpose, or subject of the initiative measure as originally proposed,” which is much broader.

14 Plaintiffs quote selectively from a Senate Rules Committee report saying that according
15 to the author, the bill allows amendments “as long as the changes are consistent with the original
16 intent.” (Pet. Mem. at 5.) The amendments to the measure at issue here are clearly consistent with the
17 original measure’s theme and purpose of promoting rehabilitation and enhancing public safety, as
18 demonstrated above. In any event, the statute itself does not require the amendments to be consistent
19 with “original intent.” It requires them to be “reasonably germane to the theme, purpose, or subject”
20 of the measure as originally proposed. The same report on which petitioners rely uses the actual
21 language of the bill (“reasonably germane to the theme, purpose, or subject”) in the section that
22 describes what the bill actually does. (Pet. RJN, Exh. C.)

23 Finally, the Legislature made one further change to the bill that evinces its intent to
24 allow broad amendments: The original bill enlarged the time for the Legislative Analyst and the
25 Department of Finance to provide their fiscal analysis from 25 to 45 days, and it provided that the
26 submission of an amendment shall not “extend the period to prepare the estimate required by
27 Section 9005.”) (RPI RJN, Exh. B at 7.) On June 17, 2014, however, the bill expanded the timeframe
28

1 for fiscal analysis to 50 days, but it retained the requirement that submission of an amendment does
2 not extend that time. In this way, the Legislature accommodated the agencies' need for enough time in
3 which to analyze broad amendments to a measure by giving them at least a full two weeks *after* the
4 close of the amendment period to adjust their analyses to reflect those changes. It did *not*, however,
5 limit the scope of the amendments.

6 If there were any doubt about the Legislature's intent to permit broad substantive
7 amendments, one need only look at the language that the Legislature included that *limits* what can go
8 into an amendment. At the same time that it added the "reasonably germane" language, the
9 Legislature added this sentence to SB 1253 in order to avoid spot bills: "However, amendments shall
10 not be submitted if the initiative measure as originally proposed would not effect a substantive change
11 in law." (*Id.*, Exh. C at 8.) In other words, proponents cannot submit a placeholder that makes no
12 substantive change in law and then submit amendments 35 days later.

13 **B. SB 1253 Was Not Intended to Create a Forum for Public Comment**

14 The final version of SB 1253 amends section 9002 of the Elections Code to provide that
15 upon receiving a request for a title and summary for a proposed initiative, "the Attorney General shall
16 initiate a public review process for a period of 30 days by" posting the text of the measure on her
17 website and "[i]nviting, and providing for the submission of, written public comments" on the
18 measure. (§ 9002(a).) SB 1253 expressly states, however, that although the public comments may be
19 obtained upon request as public records, they "shall not be displayed to the public on the Attorney
20 General's Internet Web site during the public review period." (*Id.*) Instead, the new law requires that
21 the Attorney General transmit any written comments *to the proponents alone*. (*Id.*)

22 This language contrasts with the bill's original text, which tasked the Attorney General
23 with "[p]romoting public participation by inviting on the Attorney General's Internet Web site written
24 public comments on the proposed initiative measure," and which did not limit public display of
25 comments. (RPI RJN, Exh. B at 7.) By the time of final enactment, however, the Legislature had
26 made clear that it was not setting up a public forum on the merits of a proposed initiative, but merely
27 providing a mechanism to help proponents decide whether or not they wished to amend their
28

1 measures. The new law would give proponents an opportunity to consider public comments, but they
2 were under no obligation to do anything at all with those comments.

3 The Legislature also made another significant change to the original bill by broadening
4 the scope of public comment. The original bill provided that: “Public comments may address
5 perceived errors in the drafting of, or perceived unintended consequences of, the proposed initiative
6 measure.” As enacted, SB 1253 contains no such limitation, thereby permitting a member of the
7 public to suggest that the measure be expanded to make it more effective, which is precisely what
8 happened when the Governor and his staff proposed the amendments at issue here. (Declaration of
9 Elizabeth Calvin [“Calvin Decl.”], ¶ 7; Budnick Decl., ¶ 4.)

10 Finally, petitioners misuse a Senate Rules Committee report on SB 1253 when they
11 suggest that the author intended the amendment process “to provide clearer and more thorough
12 information” to voters. (Pet. Mem. at 5.) The amendment process allows the public to provide
13 information to the proponents, but it in no way increases the public’s information about a proposed
14 initiative. The Attorney General has long posted proposed initiatives on her website. All SB 1253
15 requires in the way of additional information is to inform visitors to the website that they may submit a
16 public comment; it does not even allow them to see the comments submitted by others. Rather than
17 referring to the amendment process, the author’s statement about providing clearer and more thorough
18 information to the voters almost certainly refers to other provisions of SB 1253 that require the
19 Secretary of State to create a website that explains what a qualified measure does and who its leading
20 financial supporters are. (§ 9082.7(b).)

21 **III. ALL OF THE PURPOSES OF THE AMENDMENT PROVISIONS OF SB 1253 HAVE**
22 **BEEN MET**

23 Even if the amendments were not reasonably germane to the theme, purpose, or subject
24 of the original measure – and they are – the writ should still be denied because the Attorney General
25 and real parties have substantially complied with the purposes of SB 1253. The California Supreme
26 Court has recognized that, particularly when it comes to the initiative process, “as long as the
27 fundamental purposes underlying the applicable constitutional or statutory requirements have been
28 fulfilled . . . there has been ‘substantial compliance’ with the applicable constitutional or statutory

1 provisions,” and a measure should be allowed to go forward. (*Costa v. Super. Ct.* (2006) 37 Cal.4th
2 986, 1013.) That is clearly the case here.

3
4 **A. The Sponsors of the Measure Satisfied the Purpose of SB 1253 by Engaging**
5 **in Significant Outreach and Accepting Suggestions to Improve the Original**
6 **Measure**

7 At all relevant stages of the drafting process, the sponsors and their supporters have
8 reached out to legal and policy experts, public officials, and other members of the public to solicit
9 feedback about the measure and the draft amendment. The sponsors weighed this feedback, and in
10 many cases accepted suggestions for improvement. (Budnick Decl., ¶ 3.) Indeed, this outreach
11 process resulted in the constitutional amendment to which the District Attorneys object. (*Id.*, ¶ 4.)
12 The feedback from the Governor in particular indicated that a constitutional amendment would further
13 advance the measure’s rehabilitation and public safety goals. (Calvin Decl., ¶ 7; Budnick Decl., ¶ 4.)
14 The sponsors agreed, and filed amendments to the measure with the Attorney General. (*Id.*) Prior to
15 doing so, the sponsors and their allies engaged in significant outreach concerning the amendments
16 themselves, before they were filed, and again accepted suggestions to improve the measure. (Calvin
17 Decl., ¶ 6; Budnick Decl., ¶ 5.) Petitioners are aware of that fact, because these outreach efforts
18 included the Executive Director of petitioners’ organization, several individual district attorneys, and
19 many other members and representatives of the law enforcement community. (Calvin Decl., ¶ 6;
20 Budnick Decl., ¶ 5.)

21 By the time proponents submitted the amended Public Safety and Rehabilitation Act on
22 January 25, 2016, the sponsors’ outreach efforts had come to an end. The measure, as amended, had
23 been thoroughly vetted. Proponents understood that by submitting the amended measure as an
24 amendment to the original measure rather than as a new initiative measure, they would not receive
25 public comments via the Attorney General’s website on the amendments. (Declaration of
26 Margaret Prinzing [“Prinzing Decl.”], ¶ 3; Declaration of Harry Berezin [“Berezin Decl.”], ¶ 3.) This
27 was not an issue, because proponents had decided that they would not make any further amendments
28 to the measure. They wished to submit the measure in its current form to the voters for their
consideration. (Prinzing Decl., ¶ 3; Berezin Decl., ¶ 3; Budnick Decl., ¶ 8.)

1 The sponsors of the Public Safety and Rehabilitation Act of 2016 have substantially
2 complied with the provisions and purpose of SB 1253. Any further public comment period would
3 serve no purpose because proponents will not accept any further amendments to the measure. (*See*
4 *Cal. High Speed Rail Authority v. Super. Ct.* (2014) 228 Cal.App.4th 676, 716 [refusing to issue writ
5 that would “require . . . an idle act . . . merely [to] vindicate an abstract right with no practical
6 effect. . . .”].)

7
8 **B. The Attorney General Posted the Revised Measure and Contact Information for
9 Real Parties on Her Website**

10 When the original measure was filed, the Attorney General posted a copy of the
11 initiative on her website alongside a “Public Comment” button that allowed members of the public to
12 submit comments online. During the 30-day period following the filing of the original version of the
13 measure, the proponents of the measure received no public comments through the Attorney General’s
14 website. (Prinzing Decl., ¶ 2.)

15 When proponents filed their amendments to the measure on January 25, 2016, the
16 Attorney General once again posted the full text of the measure on her website for public review.
17 Although she did not post a “Public Comment” button alongside the amended measure, she did post
18 contact information for the proponents, including a mailing address, phone number, and fax number.
19 (*Id.*, Exh. B.) Thus, members of the public have been able to contact proponents directly about the
20 amendment since it was posted on the Attorney General’s website last month (nearly 30 days ago), as
21 at least two members of the public have done to date. (*Id.*, ¶ 6.) Moreover, as discussed above,
22 proponents received significant input through direct contacts between the sponsors of the measure and
23 stakeholders during the public comment period.

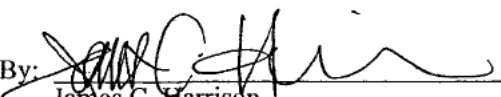
24 Thus, the purpose of the statute has been satisfied, because the proponents had an
25 opportunity to receive public comments on the amended version of the measure for virtually the same
26 period of time allowed for “public comment” on a newly-filed measure. (*Id.*, ¶¶ 5-6.) Even if the
27 Court were to conclude that the amendments are not reasonably germane, therefore, the Attorney
28 General’s posting of the amended measure, along with the proponents’ contact information,
substantially complied with Elections Code section 9002.

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Dated: February 22, 2016

Respectfully submitted,

Robin B. Johansen
James C. Harrison
REMCHO, JOHANSEN & PURCELL, LLP

By: 
James C. Harrison

Attorneys for Real Parties in Interest
Margaret R. Prinzing and Harry Berezin

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Opposition of Real Parties in Interest to**
7 **Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

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10 Brian T. Hildreth
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13 Sacramento, CA 95814
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*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

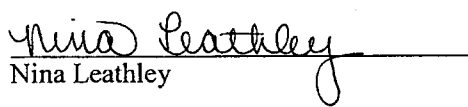
- 17 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
18 envelope or package addressed to the person(s) at the address above and
19 depositing the sealed envelope with the United States Postal Service, with
20 the postage fully prepaid.
21 placing the envelope for collection and mailing, following our ordinary
22 business practices. I am readily familiar with the business's practice for
23 collecting and processing correspondence for mailing. On the same day
24 that correspondence is placed for collection and mailing, it is deposited in
25 the ordinary course of business with the United States Postal Service,
26 located in San Leandro, California, in a sealed envelope with postage
27 fully prepaid.
28 **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.
 BY MESSENGER SERVICE: By placing the document(s) in an envelope or
package addressed to the persons at the addresses listed and providing them to a
professional messenger service for service.

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BY FACSIMILE TRANSMISSION: By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.

BY EMAIL TRANSMISSION: By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268450-3)

FILED
ENDORSED

2016 FEB 22 PM 2:38

9900 COURTHOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

1 ROBIN B. JOHANSEN, State Bar No. 79084
2 JAMES C. HARRISON, State Bar No. 161958
3 REMCHO, JOHANSEN & PURCELL, LLP
4 201 Dolores Avenue
5 San Leandro, CA 94577
6 Phone: (510) 346-6200
7 Fax: (510) 346-6201
8 Email: harrison@rjp.com

9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
16 SCHUBERT, an individual and in her personal
17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**DECLARATION OF HARRY BEREZIN
IN SUPPORT OF OPPOSITION OF REAL
PARTIES IN INTEREST TO VERIFIED
PETITION FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016
Time: 3:30 p.m.
Dept.: 24

(The Honorable Shelleyanne Chang)

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DECLARATION OF HARRY BEREZIN IN SUPPORT OF OPPOSITION OF
REAL PARTIES IN INTEREST TO VERIFIED PETITION FOR WRIT OF MANDATE

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DECLARATION OF HARRY BEREZIN

I, Harry Berezin, declare as follows:

1. I am one of the official proponents of "The Public Safety and Rehabilitation Act of 2016," No. 15-0121. I am also an attorney and a real party in interest in this case. I submit this declaration in support of Real Parties in Interest's Opposition to Verified Petition for Writ of Mandate.

2. The Attorney General apparently did not receive any public comments on this measure during the 30-day public comment period because her office did not forward any public comments to me.

3. I am and have been familiar with the provisions of Elections Code section 9002, and the procedures used by the Office of the Attorney General to implement section 9002, since before becoming a proponent of the Public Safety and Rehabilitation Act. I understood that by submitting the amended measure on January 25, 2016 as an amendment to the original measure rather than as a new initiative measure, the Attorney General would not post a "Submit Comment" button on her website to accept public comments on the amendments via the Attorney General's website. I considered that fact to be irrelevant as a practical matter, however, because there are no plans to make any further amendments to the measure, regardless of any additional comments received from the public. I wish to submit the measure in its current form to the voters for their consideration at the November 2016 election.

4. Since filing the amendment to the Public Safety and Rehabilitation Act, my office has received comments from two members of the public at my law firm's address. I have reviewed those comments and do not wish to amend the Public Safety and Rehabilitation Act as a consequence.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 22nd day of February, 2016, in San Leandro, California.


HARRY BEREZIN

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PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On February 22, 2016, I served a true copy of the following document(s):

**Declaration of Harry Berezin in Support of
Opposition of Real Parties in Interest to
Verified Petition for Writ of Mandate**

on the following party(ies) in said action:

Thomas W. Hiltachk
Brian T. Hildreth
Bell, McAndrews & Hiltachk, LLP
455 Capitol Mall, Suite 600
Sacramento, CA 95814
Phone: (916) 442-7757
Email: tomh@bmhlaw.com
Email: bhildreth@bmhlaw.com

*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

Paul E. Stein
Deputy Attorney General
Office of the Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102
Phone: (415) 703-5500
Email: paul.stein@doj.ca.gov

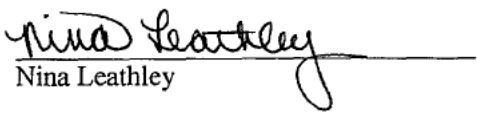
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
 - depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268003-2)

1 ROBIN B. JOHANSEN, State Bar No. 79084
2 JAMES C. HARRISON, State Bar No. 161958
3 REMCHO, JOHANSEN & PURCELL, LLP
4 201 Dolores Avenue
5 San Leandro, CA 94577
6 Phone: (510) 346-6200
7 Fax: (510) 346-6201
8 Email: harrison@rjp.com

9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

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2016 FEB 22 PM 2:38
CLERK COUNTY CLERK
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
16 SCHUBERT, an individual and in her personal
17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**DECLARATION OF SCOTT BUDNICK
IN SUPPORT OF OPPOSITION OF REAL
PARTIES IN INTEREST TO VERIFIED
PETITION FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016
Time: 3:30 p.m.
Dept.: 24

(The Honorable Shelleyanne Chang)

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DECLARATION OF SCOTT BUDNICK

I, Scott Budnick, declare as follows:

1. I am the Founder and President of The Anti-Recidivism Coalition and the former Executive Vice President of Green Hat Films. I am also a teacher and on the Advisory Board for InsideOUT Writers and I serve on the Advisory board for the Loyola Law School, Center for Juvenile Law and Policy. For my work with the criminal justice system, I was named California’s Volunteer of the Year for 2012 by Governor Brown. In August 2013, I was appointed to the Board of State and Community Corrections (BSCC) by then Speaker of the Assembly, John Perez, and I was appointed by Governor Brown to the Board of Governors for the California Community Colleges. I am also a board member of President Obama’s Foundation, My Brother’s Keeper.

2. I am also the lead executive of Smart on Crime, the political action committee that is the sponsor of “The Public Safety and Rehabilitation Act of 2016,” No. 15-0121. In that capacity, I have been personally involved in many aspects of the drafting process for the Public Safety and Rehabilitation Act since October, 2015.

3. At all relevant stages of the drafting process for the Public Safety and Rehabilitation Act, Smart on Crime and its coalition partners and allies have reached out to many individuals to solicit feedback about the measure as originally submitted and subsequent amendments to that measure. We weighed this feedback, and in many cases accepted suggestions for improvement.

4. This outreach process resulted in the proposed constitutional amendment now included in the Public Safety and Rehabilitation Act. Governor Brown in particular indicated that a constitutional amendment of this kind would further advance the measure’s rehabilitation and public safety goals. I agreed, as did many of my colleagues, and we decided to include such a provision in the amendment we subsequently submitted to the Attorney General on January 25, 2016.

5. During the 35-day period before this amendment was filed, my colleagues and I engaged in significant outreach concerning the measure and amendments to that measure. My own outreach efforts included communications with legal and policy experts, clergy, and members of the advocacy community. It included communications with state and local officials from the Department of Finance, the California Department of Corrections, and the Los Angeles District Attorneys’ Office,

1 and it included national figures like Newt Gingrich and Grover Norquist. It included Governor Brown,
2 the District Attorney of San Diego, two chiefs of police, and many chief probation officers. It included
3 representatives of the California State Sheriffs' Association, the California Police Chiefs Association,
4 and the California Correctional Police Officers Association. And it included Mark Zahner, the
5 Executive Director of the California District Attorneys Association, which is one of petitioners in this
6 lawsuit.

7
8 6. I am also aware that the Governor and members of his staff engaged in
9 significant outreach concerning the measure and amendments to that measure during the 35-day period
10 before the amendment was filed. This outreach included representatives from the California State
11 Association of Counties, various sheriffs and police chiefs, and at least two district attorneys

12 7. My colleagues and I considered the feedback we received from all of the
13 individuals and organizations described above as we made decisions about the amendment we
14 subsequently submitted to the Attorney General on January 25, 2016. For example, after it became
15 clear that certain law enforcement groups, including district attorneys, would oppose parole eligibility
16 for violent offenders, we modified the draft parole provision to provide that inmates who have served
17 the full term for their primary offense are eligible for parole only if the inmate is a non-violent
18 offender.

19 8. By the time we submitted the amended Public Safety and Rehabilitation Act on
20 January 25, 2016, our efforts to seek feedback on the drafting process had come to an end. The
21 measure, as amended, had been thoroughly vetted. Even if we received further public comments
22 concerning the amendments to the measure, I would not agree to make any further amendments
23 because I intend to submit the measure in its current form to the voters for their consideration in
24 November 2016.

25 I declare under penalty of perjury that the foregoing is true and correct. I have firsthand
26 knowledge of the same, except as to those matters described on information and belief, and if called
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upon to do so, I could and would testify competently thereto. Executed this 22nd day of February,
2016, in Los Angeles, California.



SCOTT BUDNICK

SIGNATURE BY FACSIMILE

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Declaration of Scott Budnick in Support of**
7 **Opposition of Real Parties in Interest to**
8 **Verified Petition for Writ of Mandate**

9 on the following party(ies) in said action:

10 Thomas W. Hiltachk
11 Brian T. Hildreth
12 Bell, McAndrews & Hiltachk, LLP
13 455 Capitol Mall, Suite 600
14 Sacramento, CA 95814
15 Phone: (916) 442-7757
16 Email: tomh@bmhlaw.com
17 Email: bhildreth@bmhlaw.com

*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

18 Paul E. Stein
19 Deputy Attorney General
20 Office of the Attorney General
21 455 Golden Gate Avenue, Suite 11000
22 San Francisco, CA 94102
23 Phone: (415) 703-5500
24 Email: paul.stein@doj.ca.gov

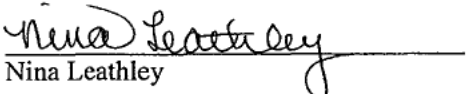
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- 25 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
 - 26 depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - 27 placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- 28 **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268221-3)

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ROBIN B. JOHANSEN, State Bar No. 79084
JAMES C. HARRISON, State Bar No. 161958
REMCHO, JOHANSEN & PURCELL, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201
Email: harrison@rjp.com

Attorneys for Real Parties in Interest
Margaret R. Prinzing and Harry Berezin

FILED
ENDORSED

2016 FEB 22 PM 2:38

COURT HOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO
(UNLIMITED JURISDICTION)

CALIFORNIA DISTRICT ATTORNEYS
ASSOCIATION, and ANNE MARIE
SCHUBERT, an individual and in her personal
capacity,

Petitioners,

vs.

ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA, KAMALA HARRIS, in her
official capacity only; and DOES I-X, inclusive,

Respondents.

MARGARET R. PRINZING and
HARRY BEREZIN,

Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**DECLARATION OF ELIZABETH CALVIN
IN SUPPORT OF OPPOSITION OF REAL
PARTIES IN INTEREST TO VERIFIED
PETITION FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016
Time: 3:30 p.m.
Dept.: 24

(The Honorable Shelleyanne Chang)

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measure. In conjunction with our coalition, we agreed to significant amendments to address issues raised by CPOC. It is my understanding that members of our coalition also met with sheriffs, several elected District Attorneys, and police chiefs to solicit feedback about the measure and the draft amendments.

7. During this time I also had many conversations with the Governor's staff about the content of the measure as originally drafted, and possible amendments to further advance the measure's rehabilitation and public safety goals. We accepted many suggestions, including feedback from the Governor indicating that a constitutional amendment would further advance the measure's rehabilitation and public safety goals. The amended measure filed on January 26, 2016 includes those amendments.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 22nd day of February, 2016, in Los Angeles, California.



ELIZABETH CALVIN

SIGNATURE BY FACSIMILE

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Declaration of Elizabeth Calvin in Support of**
7 **Opposition of Real Parties in Interest to**
8 **Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

9 Thomas W. Hiltachk
10 Brian T. Hildreth
11 Bell, McAndrews & Hiltachk, LLP
12 455 Capitol Mall, Suite 600
13 Sacramento, CA 95814
14 Phone: (916) 442-7757
15 Email: tomh@bmhlaw.com
16 Email: bhildreth@bmhlaw.com

*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

14 Paul E. Stein
15 Deputy Attorney General
16 Office of the Attorney General
17 455 Golden Gate Avenue, Suite 11000
18 San Francisco, CA 94102
19 Phone: (415) 703-5500
20 Email: paul.stein@doj.ca.gov

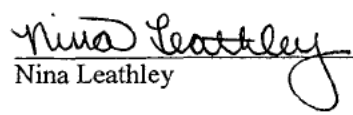
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- 18 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
19 envelope or package addressed to the person(s) at the address above and
20 depositing the sealed envelope with the United States Postal Service, with
21 the postage fully prepaid.
22 placing the envelope for collection and mailing, following our ordinary
23 business practices. I am readily familiar with the business's practice for
24 collecting and processing correspondence for mailing. On the same day
25 that correspondence is placed for collection and mailing, it is deposited in
26 the ordinary course of business with the United States Postal Service,
27 located in San Leandro, California, in a sealed envelope with postage
28 fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
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- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268338-2)

1 ROBIN B. JOHANSEN, State Bar No. 79084
2 JAMES C. HARRISON, State Bar No. 161958
3 REMCHO, JOHANSEN & PURCELL, LLP
4 201 Dolores Avenue
5 San Leandro, CA 94577
6 Phone: (510) 346-6200
7 Fax: (510) 346-6201
8 Email: harrison@rjp.com

9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
16 SCHUBERT, an individual and in her personal
17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**DECLARATION OF FRED KIMBALL
IN SUPPORT OF OPPOSITION OF REAL
PARTIES IN INTEREST TO VERIFIED
PETITION FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016
Time: 3:30 p.m.
Dept.: 24

(The Honorable Shelleyanne Chang)

2016 FEB 22 PM 2:38
CLERK OF SUPERIOR COURT
SACRAMENTO COUNTY
SACRAMENTO COUNTY

1 initiative, followed by 15 days for the Attorney General's Office to issue the 100-word circulating title
2 and summary. (Elec. Code, §§ 9004, 9005.)

3 6. Once a proponent receives the circulating title and summary, he or she is free to
4 begin circulating an initiative petition. If the Court were to order the Attorney General to re-start the
5 clock on the date this case is heard, February 24, the 65-day waiting period would conclude on
6 April 29, 2016. The Secretary of State, however, has established April 26, 2016, as the last day
7 proponents should file signed petitions with county registrars. A true and correct copy of the Secretary
8 of State's Suggested Deadlines to Qualify Initiatives is attached hereto as Exhibit A. That deadline is
9 based on the Secretary of State's computation of the various tasks that must be undertaken by elections
10 officials to determine whether an initiative has a sufficient number of valid signatures before June 30,
11 2016, which is the statutory deadline for an initiative to qualify for the November 2016 election ballot.
12 Those tasks include an initial raw count and random sample verification process by the county
13 registrars, and then reporting of those results to the Secretary of State, who determines whether an
14 initiative qualifies. (See Elec. Code, §§ 9030-9033.)

15 7. If the Court were to order the Attorney General to re-start the clock and the
16 LAO and Attorney General were to take the full amount of time allowed them under the Elections
17 Code to issue the fiscal analysis and title and summary, respectively, the sponsors of the measure
18 would receive their circulating title and summary three days after the deadline for signed petitions to
19 be submitted to the counties. Under these circumstances, it would obviously be impossible to qualify
20 the Initiative for the November ballot.

21 8. It may also become impossible to qualify the Initiative for the November ballot
22 if a court were to prohibit the Attorney General from issuing a circulating title and summary for any
23 period of time while the courts are considering the issues raised in this lawsuit. It will be challenging
24 to gather sufficient signatures to qualify the measure under the current timeframe, based on various
25 factors including the relatively short period of time now available to qualify the measure. Any delay
26 would drive up the costs of qualifying the measure and would jeopardize the possibility of securing the
27 necessary number of signatures to qualify the measure for November 2016.
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I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 22nd day of February, 2016, in Thousand Oaks, California.



FRED KIMBALL

SIGNATURE BY FACSIMILE

3
DECLARATION OF FRED KIMBALL IN SUPPORT OF OPPOSITION OF
REAL PARTIES IN INTEREST TO VERIFIED PETITION FOR WRIT OF MANDATE

EXHIBIT A

Secretary
of
State

2016 Statewide Initiative Guide



www.sos.ca.gov

(800) 345-VOTE

Statewide Initiative Guide

Preface

The Secretary of State has prepared this Statewide Initiative Guide, as required by Elections Code section 9018, to provide an understanding of the procedures and requirements for preparing and circulating initiatives, for filing sections of the petition, and describing the procedure of verifying signatures on the petition. This guide is for general information only and does not have the force and effect of law, regulation, or rule. In case of conflict, the law, regulation, or rule will apply. Interested persons should obtain the most up-to-date information available because of possible changes in law or procedure since the publication of this guide.

Background

In a special election held on October 10, 1911, California became the 10th state to adopt the initiative process. That year, Governor Hiram Johnson began his term by promising to give citizens a tool they could use to adopt laws and constitutional amendments without the support of the Governor or the Legislature. The new Legislature put a package of constitutional amendments on the ballot that placed more control of California politics directly into the hands of the people. This package included the ability to recall elected officials, the right to repeal laws by referendum, and the ability to enact state laws by initiative.

The initiative is the power of the people of California to propose statutes and to propose amendments to the California Constitution. (Cal. Const., art. II, § 8(a).) Generally, any matter that is a proper subject of legislation can become an initiative measure; however, no initiative measure addressing more than one subject area may be submitted to the voters or have any effect. (Cal. Const., art. II, §§ 8(d) and 12.) An initiative measure is placed on the ballot after its proponents successfully satisfy the requirements described in this guide and it is certified by the Secretary of State on the 131st day before a statewide general election.

For historical information regarding initiative measures, please refer to *The History of California Initiatives*, which is produced by the Secretary of State. For current information about proposed initiative measures that are in circulation or initiative measures have qualified for the next statewide ballot, please refer to our website at: <http://www.sos.ca.gov/elections/ballot-measures/initiative-and-referendum-status/> or contact the Elections Division at (916) 657-2166.

Please note: This guide is intended for statewide initiative measures only. For information regarding the qualification of local initiative measures, please contact your [local elections official](#).

Revised December 2015

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APPENDIX A

Suggested Deadlines to Qualify Initiatives

Appendix A: Suggested Deadlines to Qualify Initiatives

The following suggested deadlines are not substitutes for California election laws, regulations, or policy. Other factors, such as amending the proposed initiative measure before circulation or the length of time for circulation, will affect the time it takes to complete the process.

Initiative and referendum measures can only qualify to appear on general elections ballots. (Cal. Const., art. II, § 8(c); Elections Code § 9016 (a).)

A proposed initiative measure may qualify using the "random sample method" if the projected number of signatures is over 110% of the required amount of signatures needed to qualify. The "full check method" must be used if the projected number of signatures falls between 95% and 110% and will add to the time it takes for the proposed initiative measure to qualify for the ballot. The time frames for both qualification methods are set forth below.

November 8, 2016, General Election Qualifying Using the Random Sample Method

If the statewide raw count total equals 100% or more of the total number of signatures needed to qualify the initiative measure, each elections official is required to verify 500 signatures or 3% of the number of signatures filed in their office, whichever is greater. This process is referred to as a random sample. A county receiving less than 500 petition signatures is required to verify all the signatures filed in their office. If there is more than 110% of the required number of valid signatures, the petition will be qualified. (Elections Code § 9030.)

August 25, 2015 - Suggested last day for proponent(s) to submit proposed measure to the Attorney General and request a circulating title and summary.

October 29, 2015 - Attorney General prepares and issues the circulating title and summary; proponent(s) may begin circulation of the petition (includes time allotted for fiscal estimate).

April 26, 2016 - Last day for proponent(s) to file the petition with county elections officials.

May 6, 2016 - Last day for county elections officials to complete raw count totals and certify raw numbers to the Secretary of State.

May 13, 2016 - Last day for Secretary of State to receive raw count totals from each county elections official, determine whether the initiative petitions meet the minimum signature requirement, generate the random sample, and notify each county elections official of the results.

June 27, 2016 - Last day for county elections officials to verify and certify results of the random sampling of signatures to the Secretary of State.

June 30, 2016 (E-131) - Last day for Secretary of State to determine whether the measure qualifies for the ballot or 100% signature verification is necessary. At this point, if a 100% signature verification were necessary, it would not qualify for the November 8, 2016, General Election ballot.

**November 8, 2016, General Election
Qualifying Using the Full Check Method**

If the result of the random sample indicates that the number of valid signatures represents between 95% and 110% of the required number of signatures to qualify the initiative measure for the ballot, the Secretary of State directs the county elections officials to verify every signature on the petition. This process is referred to as a full check. Within 30 working days of receipt of this notification, the county elections officials determine the total number of qualified signatures and transmit this information to the Secretary of State. (Elections Code § 9031.)

July 7, 2015 - Suggested last day for proponent(s) to submit proposed measure to the Attorney General and request a circulating title and summary.

September 10, 2015 - Attorney General prepares and issues the circulating title and summary; and proponent(s) may begin circulation of the petition (includes time allotted for fiscal estimate).

March 8, 2016 - Last day for proponent(s) to file the petition with county elections officials.

March 18, 2016 - Last day for county elections officials to complete raw count totals and certify raw numbers to the Secretary of State.

March 23, 2016 - Last day for Secretary of State to receive raw count totals from each county elections official, determine whether the initiative petitions meet the minimum signature requirement, generate the random sample, and notify each county elections official of the results.

May 5, 2016 - Last day for county elections officials to verify and certify results of the random sampling of signatures to the Secretary of State.

May 13, 2016 - Last day for Secretary of State to determine whether the initiative petition qualifies or 100% signature verification is necessary.

June 27, 2016 - Last day for county elections officials to certify to the Secretary of State the results of the 100% signature check.

June 30, 2016 (E-131) - Last day for the Secretary of State to determine whether the measure qualifies for the ballot.

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Declaration of Fred Kimball in Support of Opposition of Real**
7 **Parties in Interest to Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

9 Thomas W. Hiltachk
10 Brian T. Hildreth
11 Bell, McAndrews & Hiltachk, LLP
12 455 Capitol Mall, Suite 600
13 Sacramento, CA 95814
14 Phone: (916) 442-7757
15 Email: tomh@bmhlaw.com
16 Email: bhildreth@bmhlaw.com

*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

13 Paul E. Stein
14 Deputy Attorney General
15 Office of the Attorney General
16 455 Golden Gate Avenue, Suite 11000
17 San Francisco, CA 94102
18 Phone: (415) 703-5500
19 Email: paul.stein@doj.ca.gov

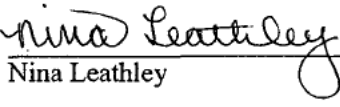
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- 17 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
18 envelope or package addressed to the person(s) at the address above and
19 depositing the sealed envelope with the United States Postal Service, with
20 the postage fully prepaid.
21 placing the envelope for collection and mailing, following our ordinary
22 business practices. I am readily familiar with the business's practice for
23 collecting and processing correspondence for mailing. On the same day
24 that correspondence is placed for collection and mailing, it is deposited in
25 the ordinary course of business with the United States Postal Service,
26 located in San Leandro, California, in a sealed envelope with postage
27 fully prepaid.
28 **BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.
 BY MESSENGER SERVICE: By placing the document(s) in an envelope or
package addressed to the persons at the addresses listed and providing them to a
professional messenger service for service.

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- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.



Nina Leathley

(00268216-2)

1 ROBIN B. JOHANSEN, State Bar No. 79084
2 JAMES C. HARRISON, State Bar No. 161958
3 REMCHO, JOHANSEN & PURCELL, LLP
4 201 Dolores Avenue
5 San Leandro, CA 94577
6 Phone: (510) 346-6200
7 Fax: (510) 346-6201
8 Email: harrison@rjp.com

9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
16 SCHUBERT, an individual and in her personal
17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**DECLARATION OF MARGARET R.
PRINZING IN SUPPORT OF OPPOSITION
OF REAL PARTIES IN INTEREST TO
VERIFIED PETITION FOR WRIT OF
MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016
Time: 3:30 p.m.
Dept.: 24

(The Honorable Shelleyanne Chang)

2016 FEB 22 PM 2:39
CLERK OF SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

27
28
DECLARATION OF MARGARET R. PRINZING IN SUPPORT OF OPPOSITION OF
REAL PARTIES IN INTEREST TO VERIFIED PETITION FOR WRIT OF MANDATE

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5. If members of the general public currently click the link for "15-0121" next to the Public Safety and Rehabilitation Act, they can access the cover letter that I submitted along with the amended measure, as well as the amended measure itself. A true and correct copy of that cover letter is attached to this declaration as Exhibit B. That cover letter states that "all inquiries or correspondence relative to this proposed initiative" can be directed to:

Smart on Crime
c/o James C. Harrison
Margaret R. Prinzing
Harry A. Berezin
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

6. This information enables members of the public to submit public comments on the amended measure directly to the proponents of the measure. Since filing the amendment to the Public Safety and Rehabilitation Act, my office has received comments from two members of the public at the address listed in Exhibit B. I have reviewed those comments and do not wish to amend the Public Safety and Rehabilitation Act as a consequence.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 22nd day of February, 2016, in San Leandro, California.

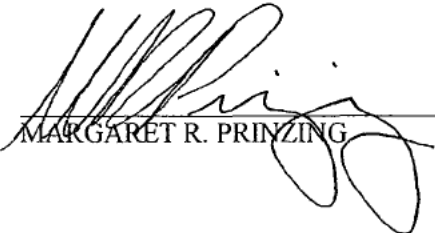

MARGARET R. PRINZING

EXHIBIT A



Search



INITIATIVES - ACTIVE MEASURES

You can download a document by selecting the proposed initiative's tracking number. Submitted proposed initiatives may appear below with an unofficial title submitted by the proponent(s) or developed by the Attorney General's Initiative Coordinator. These unofficial titles are for identification purposes only.

Please note that proposed initiatives are posted as submitted by the proponent(s). The initiative proponent(s) may submit a proposed title and summary. Such titles and summaries are not official and will likely differ from the official title and ultimately prepared by the Attorney General. The Attorney General makes no comment on the accuracy of any statements made in the proposed initiatives.

You can comment on a proposed initiative by selecting the "submit comment" button located next to the proposed initiative. Please note that the comment period applies only to initiatives and will conclude after 30 days.

The Attorney General issues an official title and summary for every proposed initiative submitted in compliance with procedural requirements. To view an official title and summary, select the title and summary link.

Active Measures

INITIATIVE	TITLE	
16-0002	"The California Initiative, Referendum and Recall Reform Act of 2016" Proponent(s): Michael Liddell Submitted for Title and Summary on February 1, 2016	Submit Comment Comments accepted through 03-02-2016
16-0001	"California Clean Environment Initiative" Proponent(s): Chanel Jensen Submitted for Title and Summary on January 21, 2016	Submit Comment Comments accepted through 02-22-2016
15-0125	"Honest Legislator Program Act" Fiscal Impact Estimate Report Proponent(s): Robert Berman Submitted for Title and Summary on December 30, 2015	Comment period for 15-0125 ended on 01-29-2016
15-0124	"Over-Policed Rights Act" Fiscal Impact Estimate Report Proponent(s): Glen Shaffer, Lisa Straffer Submitted for Title and Summary on December 29, 2015	Comment period for 15-0124 ended on 01-23-2016
15-0123	"An Act to Protect the Privacy of Health Care Decisions" Fiscal Impact Estimate Report Proponent(s): Mitchell Pearce Submitted for Title and Summary on December 28, 2015	Comment period for 15-0123 ended on 01-27-2016
15-0122	"The California Non-Partisan Ballot Act" Fiscal Impact Estimate Report Proponent(s): Jesus Cisneros Submitted for Title and Summary on December 23, 2015	Comment period for 15-0122 ended on 01-22-2016
15-0121	"The Public Safety and Rehabilitation Act of 2016" Fiscal Impact Estimate Report Proponent(s): Margaret Pirching, Harry Benazin Submitted for Title and Summary on December 22, 2015	Comment period for 15-0121 ended on 01-21-2016

Ballot Initiatives

- Ballot Initiatives Home
- Search for an Initiative
- Active Measures
- Inactive Measures
- Qualified for Ballot
- Voter Information Guide
- FAQs
- Subscribe
- Contact Us

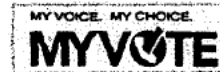


EXHIBIT B

REMCHO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

201 DOLORES AVENUE
SAN LEANDRO, CA 94577
PHONE: (510) 346-6200
FAX: (510) 346-6201
EMAIL: mprinzing@rjp.com
WEBSITE: www.rjp.com

SACRAMENTO PHONE: (916) 264-1818

Robin B. Johansen
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Andrew Harris Werbrock
Harry A. Berezin
Juan Carlos Ibarra

Joseph Remcho (1944-2003)
Kathleen J. Purcell (Ret.)

January 25, 2016

VIA MESSENGER

Office of the Attorney General
1300 "I" Street, 17th Floor
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

RECEIVED

JAN 26 2016

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: *Submission of Amendment to Statewide Initiative Measure –
The Justice and Rehabilitation Act, No. 15-0121*

Dear Ms. Johansson:

As you know, I am one of the proponents of the proposed statewide initiative, "The Justice and Rehabilitation Act," No. 15-0121. I am enclosing the following documents:

- The amended text of "The Justice and Rehabilitation Act," No. 15-0121;
- A red-line version showing the changes made in the amended text; and
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

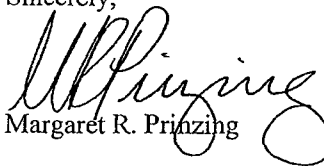
Please continue to direct all inquiries or correspondence relative to this proposed initiative as indicated below:

Ashley Johansson
Initiative Coordinator
Office of the Attorney General
January 25, 2016
Page 2

Smart on Crime
c/o James C. Harrison
Margaret R. Prinzing
Harry A. Berezin
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Thank you for your time and attention to this matter.

Sincerely,



Margaret R. Prinzing

MRP:NL
Enclosures
(00266157)

1 **PROOF OF SERVICE**

2 I, the undersigned, declare under penalty of perjury that:

3 I am a citizen of the United States, over the age of 18, and not a party to the within
4 cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

5 On February 22, 2016, I served a true copy of the following document(s):

6 **Declaration of Margaret R. Prinzing in Support of**
7 **Opposition of Real Parties in Interest to**
8 **Verified Petition for Writ of Mandate**

8 on the following party(ies) in said action:

9 Thomas W. Hiltachk
10 Brian T. Hildreth
11 Bell, McAndrews & Hiltachk, LLP
12 455 Capitol Mall, Suite 600
13 Sacramento, CA 95814
14 Phone: (916) 442-7757
15 Email: tomh@bmhlaw.com
16 Email: bhildreth@bmhlaw.com

*Attorneys for Petitioners
California District Attorneys Association and
Anne Marie Schubert*

14 Paul E. Stein
15 Deputy Attorney General
16 Office of the Attorney General
17 455 Golden Gate Avenue, Suite 11000
18 San Francisco, CA 94102
19 Phone: (415) 703-5500
20 Email: paul.stein@doj.ca.gov

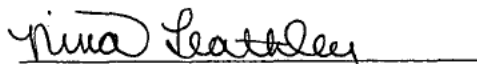
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- 18 **BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed
19 envelope or package addressed to the person(s) at the address above and
20 depositing the sealed envelope with the United States Postal Service, with
21 the postage fully prepaid.
22 placing the envelope for collection and mailing, following our ordinary
23 business practices. I am readily familiar with the business's practice for
24 collecting and processing correspondence for mailing. On the same day
25 that correspondence is placed for collection and mailing, it is deposited in
26 the ordinary course of business with the United States Postal Service,
27 located in San Leandro, California, in a sealed envelope with postage
28 fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope
or package provided by an overnight delivery carrier and addressed to the persons
at the addresses listed. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight
delivery carrier.

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- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

(00268000-3)

1 ROBIN B. JOHANSEN, State Bar No. 79084
2 JAMES C. HARRISON, State Bar No. 161958
3 REMCHO, JOHANSEN & PURCELL, LLP
4 201 Dolores Avenue
5 San Leandro, CA 94577
6 Phone: (510) 346-6200
7 Fax: (510) 346-6201
8 Email: harrison@rjp.com

9 Attorneys for Real Parties in Interest
10 Margaret R. Prinzing and Harry Berezin

ENDORSED

2016 FEB 22 PM 2:39

CLERK OF SUPERIOR COURT
SACRAMENTO COUNTY

11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
13 (UNLIMITED JURISDICTION)

14 CALIFORNIA DISTRICT ATTORNEYS
15 ASSOCIATION, and ANNE MARIE
16 SCHUBERT, an individual and in her personal
17 capacity,

18 Petitioners,

19 vs.

20 ATTORNEY GENERAL OF THE STATE OF
21 CALIFORNIA, KAMALA HARRIS, in her
22 official capacity only; and DOES I-X, inclusive,

23 Respondents.

24 MARGARET R. PRINZING and
25 HARRY BEREZIN,

26 Real Parties in Interest.

No.: 34-2016-80002293-CU-WM-GDS

Action Filed: February 11, 2016

**REQUEST FOR JUDICIAL NOTICE;
DECLARATION OF MICHAEL NARCISO
IN SUPPORT OF OPPOSITION OF REAL
PARTIES IN INTEREST TO VERIFIED
PETITION FOR WRIT OF MANDATE**

**ELECTION MATTER –
IMMEDIATE ACTION REQUESTED
[Elec. Code, § 13314]**

Hearing:

Date: February 24, 2016

Time: 3:30 p.m.

Dept.: 24

(The Honorable Shelleyanne Chang)

27
28
REQUEST FOR JUDICIAL NOTICE; DECLARATION OF MICHAEL NARCISO
IN SUPPORT OF OPPOSITION OF REAL PARTIES IN INTEREST
TO VERIFIED PETITION FOR WRIT OF MANDATE

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REQUEST FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 451 and 452 and rules 3.1113(l) and 3.1306(c) of the California Rules of Court, real parties in interest Margaret R. Prinzing and Harry Berezin (“real parties”) hereby request that the Court take judicial notice of the following:

1. Senate Bill No. 1253 (2013-2014 Reg. Sess.) as amended in Assembly on July 1, 2014, attached as Exhibit A to the Declaration of Michael Narciso;
2. Senate Bill No. 1253 (2013-2014 Reg. Sess.) as introduced on February 20, 2014, attached as Exhibit B to the Declaration of Michael Narciso; and
3. Senate Bill No. 1253 (2013-2014 Reg. Sess.) as amended in Assembly on August 4, 2014, attached as Exhibit C to the Declaration of Michael Narciso.

Exhibits A, B, and C are legislative enactments and are the proper subject of judicial notice under Evidence Code sections 451(a) and 452(c). (*See Assembly v. Public Utilities Com.* (1995) 12 Cal.4th 87, 97, fn. 6 [taking judicial notice of legislative enactments].) Exhibits A, B, and C are relevant to show the legislative history of Senate Bill No. 1253 and revisions made to the bill.

Based upon the above authorities, real parties request that the Court take judicial notice of Exhibits A, B, and C attached to the Declaration of Michael Narciso.

Dated: February 22, 2016

Respectfully submitted,

Robin B. Johansen
James C. Harrison

REMCHO, JOHANSEN & PURCELL, LLP

By: 
James C. Harrison

Attorneys for Real Parties in Interest
Margaret R. Prinzing and Harry Berezin

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DECLARATION OF MICHAEL NARCISO

I, Michael Narciso, declare as follows:

1. I am a paralegal at Remcho, Johansen & Purcell, LLP, attorneys for real parties in interest in this case. I submit this declaration in support of the Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate.

2. Attached as Exhibit A is a true and correct copy of Senate Bill No. 1253 (2013-2014 Reg. Sess.) as amended in Assembly on July 1, 2014. A copy of this document was obtained from the LRI History LLC website at <http://lrihistory.com/>.

3. Attached as Exhibit B is a true and correct copy of Senate Bill No. 1253 (2013-2014 Reg. Sess.) as introduced on February 20, 2014. A copy of this document was obtained from the LRI History LLC website at <http://lrihistory.com/>.

4. Attached as Exhibit C is a true and correct copy of Senate Bill No. 1253 (2013-2014 Reg. Sess.) as amended in Assembly on August 4, 2014. A copy of this document was obtained from the LRI History LLC website at <http://lrihistory.com/>.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same, except as to those matters described on information and belief, and if called upon to do so, I could and would testify competently thereto. Executed this 22nd day of February, 2016, in San Leandro, California.


MICHAEL NARCISO

EXHIBIT A

AMENDED IN ASSEMBLY JULY 1, 2014
AMENDED IN ASSEMBLY JUNE 17, 2014
AMENDED IN SENATE MAY 27, 2014
AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 1253

Introduced by Senator Steinberg
(Coauthors: Senators Berryhill, Cannella, Galgiani, Huff, Leno,
Lieu, Wolk, and Wyland)
(Coauthor: Assembly Member Quirk-Silva)

February 20, 2014

An act to amend Sections 9, 101, 9002, 9004, 9005, 9014, 9030, 9031, 9033, 9034, 9051, 9082.7, 9092, 9094.5, 9604, and 18621 of the Elections Code, and to amend Section 88006 of the Government 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

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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 50 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. Existing law, including provisions of the Political Reform Act of 1974, requires the Secretary of State to make a copy of the ballot pamphlet available for public examination at least 20 days before the Secretary of State submits the copy to the State Printer.

This bill would impose specified requirements with respect to the ballot materials required to be prepared by the Attorney General. The bill would extend the number of days, from 20 to 25, that the Secretary of State is required to make the copy of the ballot pamphlet available for public examination.

(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 directing that signature verification be terminated. The bill would require the Secretary of State to identify the date of the next statewide election and, on the 131st day prior to that election, to issue a certificate of qualification certifying that the initiative measure is qualified for the ballot at that election. The bill would provide that, upon the issuance of that certification, the initiative measure would be deemed qualified for the ballot for purposes of specified provisions of the California Constitution.

(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 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.

(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.

(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.

(10) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. 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.

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

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

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

11 (1) Providing voters with more useful information so that they
12 are able to make an informed decision about an initiative measure.
13 Under this act, the Secretary of State would be required to give
14 voters one-stop access to a clear explanation of each measure and
15 information about the individuals and groups behind each measure.
16 This would give voters updated information about who is spending
17 large sums of money to support or oppose each initiative measure.
18 Voters would also be allowed to request an electronic copy of
19 ballot materials, thereby reducing the expenses of printing and
20 mailing.

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

24 (3) Identifying and correcting flaws in an initiative measure
25 before it appears on the ballot. Currently, proponents of an initiative
26 measure have few options to correct the language of an initiative
27 measure or to withdraw a petition for a proposed initiative measure,
28 even when flaws are identified. This act would give voters an
29 opportunity to comment on an initiative measure before the petition
30 is circulated for signatures. Public comment may address perceived
31 errors in the drafting of, or perceived unintended consequences
32 of, the proposed initiative measure. By extending the time for
33 gathering signatures, this act would give the Legislature the
34 opportunity to hold earlier public hearings to review initiative
35 measures. This act would also allow the proponents of an initiative
36 measure to withdraw the measure after the petition and signatures
37 are submitted to elections officials, but before the measure qualifies
38 for the ballot.

39 SEC. 3. Section 9 of the Elections Code is amended to read:

1 9. (a) Counting of words, for purposes of this code, shall be
2 as follows:

3 (1) Punctuation is not counted.

4 (2) Each word shall be counted as one word except as specified
5 in this section.

6 (3) All proper nouns, including geographical names, shall be
7 considered as one word; for example, "City and County of San
8 Francisco" shall be counted as one word.

9 (4) Each abbreviation for a word, phrase, or expression shall be
10 counted as one word.

11 (5) Hyphenated words that appear in any generally available
12 standard reference dictionary, published in the United States at
13 any time within the 10 calendar years immediately preceding the
14 election for which the words are counted, shall be considered as
15 one word. Each part of all other hyphenated words shall be counted
16 as a separate word.

17 (6) Dates shall be counted as one word.

18 (7) Any number consisting of a digit or digits shall be considered
19 as one word. Any number which is spelled, such as "one," shall
20 be considered as a separate word or words. "One" shall be counted
21 as one word whereas "one hundred" shall be counted as two words.
22 "100" shall be counted as one word.

23 (8) Telephone numbers shall be counted as one word.

24 (9) Internet Web site addresses shall be counted as one word.

25 (b) This section shall not apply to counting words for ballot
26 designations under Section 13107.

27 SEC. 4. Section 101 of the Elections Code is amended to read:

28 101. (a) Notwithstanding any other law, a state or local
29 initiative petition required to be signed by voters shall contain in
30 12-point type, before that portion of the petition for voters'
31 signatures, printed names, and residence addresses, the following
32 language:

33

34

"NOTICE TO THE PUBLIC

35

36 THIS PETITION MAY BE CIRCULATED BY A PAID
37 SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE
38 THE RIGHT TO ASK."

39

1 (b) A state initiative petition shall contain, in the same location
2 and type size described in subdivision (a), the following language:
3

4 “THE PROPONENTS OF THIS PROPOSED INITIATIVE
5 MEASURE HAVE THE RIGHT TO WITHDRAW THIS
6 PETITION AT ANY TIME BEFORE THE MEASURE
7 QUALIFIES FOR THE BALLOT.”
8

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

10 9002. (a) Upon receipt of a request from the proponents of a
11 proposed initiative measure for a circulating title and summary,
12 the Attorney General shall initiate a public review process for a
13 period of 30 days by doing all of the following:

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

16 (2) Inviting, and providing for the submission of, written public
17 comments on the proposed initiative measure on the Attorney
18 General’s Internet Web site. The site shall accept written public
19 comments for the duration of the public review period. The written
20 public comments shall be public records, available for inspection
21 upon request pursuant to Chapter 3.5 (commencing with Section
22 6250) of Division 7 of Title 1 of the Government Code, but shall
23 not be displayed to the public on the Attorney General’s Internet
24 Web site during the public review period. The Attorney General
25 shall transmit any written public comments received during the
26 public review period to the proponents of the proposed initiative
27 measure.

28 (b) During the public review period, the proponents of the
29 proposed initiative measure may submit amendments to the
30 measure *that further its purposes, as determined by the Attorney*
31 *General.*

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

35 (2) An amendment shall be submitted to the Attorney General’s
36 Initiative Coordinator located in the Attorney General’s Sacramento
37 Office via United States Postal Service, alternative mail service,
38 or personal delivery. Only printed documents shall be accepted;
39 facsimile or email delivery shall not be accepted.

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

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

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

9 9004. (a) Upon receipt of the text of a proposed initiative
10 measure, and after the public review period provided for in Section
11 9002, the Attorney General shall prepare a circulating title and
12 summary of the chief purposes and points of the proposed measure.
13 The circulating title and summary shall not exceed 100 words. The
14 Attorney General shall also provide a unique numeric identifier
15 for each proposed initiative measure. The circulating title and
16 summary shall be prepared in the manner provided for the
17 preparation of ballot titles and summaries in Article 5 (commencing
18 with Section 9050), the provisions of which, in regard to the
19 preparation, filing, and settlement of ballot titles and summaries,
20 are applicable to the circulating title and summary.

21 (b) The Attorney General shall provide a copy of the circulating
22 title and summary and its unique numeric identifier to the
23 proponents and to the Secretary of State within 15 days after receipt
24 of the fiscal estimate or opinion prepared by the Department of
25 Finance and the Legislative Analyst pursuant to Section 9005. The
26 date the copy is delivered or mailed to the proponents is the
27 “official summary date.”

28 (c) Upon receipt of the circulating title and summary from the
29 Attorney General, the Secretary of State shall, within one business
30 day, notify the proponents and county elections official of each
31 county of the official summary date and provide a copy of the
32 circulating title and summary to each county elections official.
33 This notification shall also include a complete schedule showing
34 the maximum filing deadline, and the certification deadline by the
35 counties to the Secretary of State.

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

37 9005. (a) The Attorney General, in preparing a circulating title
38 and summary for a proposed initiative measure, shall, in boldface
39 print, include in the circulating title and summary either the
40 estimate of the amount of any increase or decrease in revenues or

1 costs to the state or local government, or an opinion as to whether
2 or not a substantial net change in state or local finances would
3 result if the proposed initiative is adopted.

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

9 (c) The estimate shall be delivered to the Attorney General
10 within 50 days of the date of receipt of the proposed initiative
11 measure by the Attorney General, unless, in the opinion of both
12 the Department of Finance and the Legislative Analyst, a
13 reasonable estimate of the net impact of the proposed initiative
14 measure cannot be prepared within the 50-day period. In the latter
15 case, the Department of Finance and the Legislative Analyst shall,
16 within the 50-day period, give the Attorney General their opinion
17 as to whether or not a substantial net change in state or local
18 finances would result if the proposed initiative measure is adopted.

19 (d) A statement of fiscal impact prepared by the Legislative
20 Analyst pursuant to subdivision (b) of Section 12172 of the
21 Government Code may be used by the Department of Finance and
22 the Legislative Analyst in the preparation of the fiscal estimate or
23 the opinion.

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

25 9014. A petition for a proposed initiative measure or
26 referendum shall not be circulated for signatures before the official
27 summary date. A petition with signatures on a proposed initiative
28 measure shall be filed with the county elections official not later
29 than 180 days from the official summary date, and a county
30 elections official shall not accept a petition for the proposed
31 initiative measure after that period. A petition for a proposed
32 referendum measure shall be filed with the county elections
33 officials not later than 90 days from the date the legislative bill
34 was chaptered by the Secretary of State, and a county elections
35 official shall not accept a petition for the proposed referendum
36 after that period.

37 SEC. 9. Section 9030 of the Elections Code is amended to read:

38 9030. (a) Each section of the petition shall be filed with the
39 elections official of the county or city and county in which it was
40 circulated, but all sections circulated in any county or city and

1 county shall be filed at the same time. Once filed, no petition
2 section shall be amended except by order of a court of competent
3 jurisdiction.

4 (b) Within eight days after the filing of the petition, excluding
5 Saturdays, Sundays, and holidays, the elections official shall
6 determine the total number of signatures affixed to the petition
7 and shall transmit this information to the Secretary of State. If the
8 total number of signatures filed with all elections officials is less
9 than 100 percent of the number of qualified voters required to find
10 the petition sufficient, the Secretary of State shall so notify the
11 proponents and the elections officials, and no further action shall
12 be taken with regard to the petition.

13 (c) If the number of signatures filed with all elections officials
14 is 100 percent or more of the number of qualified voters needed
15 to declare the petition sufficient, the Secretary of State shall
16 immediately so notify the elections officials.

17 (d) Within 30 days after this notification, excluding Saturdays,
18 Sundays, and holidays, the elections official shall determine the
19 number of qualified voters who have signed the petition. If more
20 than 500 names have been signed on sections of the petition filed
21 with an elections official, the elections official shall use a random
22 sampling technique for verification of signatures, as determined
23 by the Secretary of State. The random sample of signatures to be
24 verified shall be drawn in such a manner that every signature filed
25 with the elections official shall be given an equal opportunity to
26 be included in the sample. The random sampling shall include an
27 examination of at least 500 or 3 percent of the signatures,
28 whichever is greater. In determining from the records of registration
29 what number of qualified voters have signed the petition, the
30 elections official may use the duplicate file of affidavits of
31 registered voters or the facsimiles of voters' signatures, provided
32 that the method of preparing and displaying the facsimiles complies
33 with law.

34 (e) The elections official, upon the completion of the
35 examination, shall immediately attach to the petition, except the
36 signatures thereto appended, a properly dated certificate, showing
37 the result of the examination, and shall immediately transmit the
38 petition and the certificate to the Secretary of State. A copy of this
39 certificate shall be filed in the elections official's office.

1 (f) If the certificates received from all elections officials by the
2 Secretary of State establish that the number of valid signatures
3 does not equal 95 percent of the number of qualified voters needed
4 to find the petition sufficient, the petition shall be deemed to have
5 failed to qualify, and the Secretary of State shall immediately so
6 notify the proponents and the elections officials.

7 (g) If the certificates received from all elections officials by the
8 Secretary of State total more than 110 percent of the number of
9 qualified voters needed to find the petition sufficient, the Secretary
10 of State shall certify that the measure is qualified for the ballot as
11 provided in Section 9033.

12 SEC. 10. Section 9031 of the Elections Code is amended to
13 read:

14 9031. (a) If the statistical sampling shows that the number of
15 valid signatures is within 95 to 110 percent of the number of
16 signatures of qualified voters needed to declare the petition
17 sufficient, the Secretary of State shall order the examination and
18 verification of each signature filed, and shall so notify the elections
19 officials.

20 (b) Within 30 days, excluding Saturdays, Sundays, and holidays,
21 after receipt of the order, the elections official or registrar of voters
22 shall determine from the records of registration what number of
23 qualified voters have signed the petition and if necessary the board
24 of supervisors shall allow the elections official or registrar
25 additional assistance for the purpose of examining the petition and
26 provide for their compensation. In determining from the records
27 of registration what number of qualified voters have signed the
28 petition, the elections official or registrar of voters may use any
29 file or list of registered voters maintained by his or her office, or
30 the facsimiles of voters' signatures, provided that the method of
31 preparing and displaying the facsimiles complies with law.

32 (c) The elections official or registrar, upon the completion of
33 the examination, shall immediately attach to the petition, except
34 the signatures thereto appended, an amended certificate properly
35 dated, showing the result of the examination and shall immediately
36 transmit the petition, together with the amended certificate, to the
37 Secretary of State. A copy of the amended certificate shall be filed
38 in the elections official's office.

1 (d) (1) If the amended certificates establish the petition's
2 sufficiency, the Secretary of State shall certify that the measure is
3 qualified for the ballot as provided in Section 9033.

4 (2) If the amended certificates received from all elections
5 officials by the Secretary of State establish that the petition has
6 still been found insufficient, the Secretary of State shall
7 immediately so notify the proponents and the elections officials.

8 SEC. 11. Section 9033 of the Elections Code is amended to
9 read:

10 9033. (a) When the Secretary of State has received from one
11 or more elections officials or registrars a petition, certified to have
12 been signed by the requisite number of qualified voters, the
13 Secretary of State shall forthwith notify the proponents and
14 immediately transmit to the elections official or registrar of voters
15 of every county or city and county in the state a notice directing
16 that signature verification be terminated.

17 (b) (1) In the case of an initiative measure, the Secretary of
18 State shall identify the date of the next statewide general election
19 as defined in subdivision (a) of Section 9016, or the next special
20 statewide election, that will occur not less than 131 days after the
21 date the Secretary of State receives a petition certified to have been
22 signed by the requisite number of qualified voters.

23 (2) On the 131st day prior to the date of the election identified
24 pursuant to paragraph (1), the Secretary of State shall do all of the
25 following:

26 (A) Issue a certificate of qualification certifying that the
27 initiative measure, as of that date, is qualified for the ballot at the
28 election identified pursuant to paragraph (1).

29 (B) Notify the proponents of the initiative measure and the
30 elections official of each county that the measure, as of that date,
31 is qualified for the ballot at the election identified pursuant to
32 paragraph (1).

33 (C) Include the initiative measure in a list of all statewide
34 initiative measures that are eligible to be placed on the ballot at
35 the election identified pursuant to paragraph (1) and publish the
36 list on the Secretary of State's Internet Web site.

37 (3) Upon the issuance of a certificate of qualification pursuant
38 to paragraph (2), an initiative measure shall be deemed qualified
39 for the ballot for purposes of subdivision (c) of Section 8 of Article
40 II of the California Constitution.

1 (c) (1) In the case of a referendum measure, upon receipt of a
2 petition certified to have been signed by the requisite number of
3 qualified voters, the Secretary of State shall do all of the following:

4 (A) Issue a certificate of qualification certifying that the
5 referendum measure, as of that date, is qualified for the ballot.

6 (B) Notify the proponents of the referendum measure and the
7 elections official of each county that the measure, as of that date,
8 is qualified for the ballot.

9 (C) Include the referendum measure in a list of all statewide
10 referendum measures that have qualified for the ballot and publish
11 the list on the Secretary of State's Internet Web site.

12 (2) Upon the issuance of a certificate of qualification pursuant
13 to paragraph (1), a referendum measure shall be deemed qualified
14 for the ballot for purposes of subdivision (c) of Section 9 of Article
15 II of the California Constitution.

16 SEC. 12. Section 9034 of the Elections Code is amended to
17 read:

18 9034. (a) The proponents of a proposed initiative measure
19 shall submit a certification, signed under penalty of perjury, to the
20 Secretary of State immediately upon the collection of 25 percent
21 of the number of signatures needed to qualify the initiative measure
22 for the ballot.

23 (b) Upon the receipt of the certification required by subdivision
24 (a), the Secretary of State shall transmit copies of the initiative
25 measure, together with the circulating title and summary as
26 prepared by the Attorney General pursuant to Section 9004, to the
27 Senate and the Assembly. Each house shall assign the initiative
28 measure to its appropriate committees. The appropriate committees
29 shall hold joint public hearings on the subject of the measure not
30 later than 131 days before the date of the election at which the
31 measure is to be voted upon.

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

35 SEC. 13. Section 9051 of the Elections Code is amended to
36 read:

37 9051. (a) (1) The ballot title and summary may differ from
38 the legislative, circulating, or other title and summary of the
39 measure and shall not exceed 100 words, not including the fiscal
40 impact statement.

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

5 (b) The ballot label shall not contain more than 75 words and
6 shall be a condensed version of the ballot title and summary
7 including the financial impact summary prepared pursuant to
8 Section 9087 of this code and Section 88003 of the Government
9 Code.

10 (c) In providing the ballot title and summary, the Attorney
11 General shall give a true and impartial statement of the purpose
12 of the measure in such language that the ballot title and summary
13 shall neither be an argument, nor be likely to create prejudice, for
14 or against the proposed measure. The ballot title and summary
15 shall also satisfy all of the following:

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

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

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

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

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

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

31 SEC. 14. Section 9082.7 of the Elections Code is amended to
32 read:

33 9082.7. (a) The Secretary of State shall make available the
34 complete state ballot pamphlet over the Internet.

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

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

1 (2) A current list of the top 10 contributors supporting and
2 opposing the ballot measure, as compiled by the Fair Political
3 Practices Commission pursuant to subdivision (e) of Section 84223
4 of the Government Code.

5 (3) (A) A list of each committee primarily formed to support
6 or oppose the ballot measure, as described in Section 82047.5 of
7 the Government Code, and a means to access information about
8 the sources of contributions reported for each committee.

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

13 (C) If a committee identified in subparagraph (A) receives at
14 least one million dollars (\$1,000,000) in contributions for an
15 election, the Secretary of State shall provide a means to access
16 online information about the committee's top 10 contributors
17 reported to the Fair Political Practices Commission pursuant to
18 subdivision (a) of Section 84223 of the Government Code.

19 (D) Notwithstanding paragraph (1) of subdivision (c) of Section
20 84223 of the Government Code, the Fair Political Practices
21 Commission shall automatically provide any list of top 10
22 contributors created pursuant to Section 84223 of the Government
23 Code, and any subsequent updates to that list, to the Secretary of
24 State for purposes of compliance with this section.

25 (4) Any other information deemed relevant by the Secretary of
26 State.

27 SEC. 15. Section 9092 of the Elections Code is amended to
28 read:

29 9092. Not less than 25 days before he or she submits the copy
30 for the ballot pamphlet to the State Printer, the Secretary of State
31 shall make the copy available for public examination. Any elector
32 may seek a writ of mandate requiring any copy to be amended or
33 deleted from the ballot pamphlet. A peremptory writ of mandate
34 shall issue only upon clear and convincing proof that the copy in
35 question is false, misleading, or inconsistent with the requirements
36 of this code or Chapter 8 (commencing with Section 88000) of
37 Title 9 of the Government Code, and that issuance of the writ will
38 not substantially interfere with the printing and distribution of the
39 ballot pamphlet as required by law. Venue for a proceeding under
40 this section shall be exclusively in Sacramento County. The

1 Secretary of State shall be named as the respondent and the State
2 Printer and the person or official who authored the copy in question
3 shall be named as real parties in interest. If the proceeding is
4 initiated by the Secretary of State, the State Printer shall be named
5 as the respondent.

6 SEC. 16. Section 9094.5 of the Elections Code is amended to
7 read:

8 9094.5. (a) The Secretary of State shall establish processes to
9 enable a voter to do both of the following:

10 (1) Opt out of receiving by mail the state ballot pamphlet
11 prepared pursuant to Section 9081.

12 (2) When the state ballot pamphlet is available, receive either
13 the state ballot pamphlet in an electronic format or an electronic
14 notification making the pamphlet available by means of online
15 access.

16 (b) The processes described in subdivision (a) shall become
17 effective only after the Secretary of State certifies that the state
18 has a statewide voter registration database that complies with the
19 federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et
20 seq.).

21 (c) The processes described in subdivision (a) shall not apply
22 where two or more registered voters have the same postal address
23 unless each voter who shares the same postal address has chosen
24 to discontinue receiving the ballot pamphlet by mail.

25 (d) The Secretary of State shall also establish a procedure to
26 permit a voter to begin receiving the ballot pamphlet by mail again
27 after the voter has discontinued receiving it pursuant to subdivision
28 (a).

29 SEC. 17. Section 9604 of the Elections Code is amended to
30 read:

31 9604. (a) Notwithstanding any other law, any person may
32 engage in good faith bargaining between competing interests to
33 secure legislative approval of matters embraced in a statewide or
34 local initiative or referendum measure, and the proponents may,
35 as a result of these negotiations, withdraw the measure at any time
36 before filing the petition with the appropriate elections official.

37 (b) In addition to the procedure under subdivision (a), the
38 proponents of a statewide initiative or referendum measure may
39 withdraw the measure after filing the petition with the appropriate
40 elections official at any time before the Secretary of State certifies

1 that the measure has qualified for the ballot pursuant to Section
2 9033.

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

6 (d) Withdrawal of a local initiative or referendum measure shall
7 be effective upon receipt by the appropriate local elections official
8 of a written notice of withdrawal, signed by all proponents of the
9 measure.

10 SEC. 18. Section 18621 of the Elections Code is amended to
11 read:

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

30 SEC. 19. Section 88006 of the Government Code is amended
31 to read:

32 88006. Not less than 25 days before he or she submits the copy
33 for the ballot pamphlet to the State Printer, the Secretary of State
34 shall make the copy available for public examination. Any elector
35 may seek a writ of mandate requiring the copy to be amended or
36 deleted from the ballot pamphlet. A peremptory writ of mandate
37 shall issue only upon clear and convincing proof that the copy in
38 question is false, misleading or inconsistent with the requirements
39 of this chapter or the Elections Code, and that issuance of the writ
40 will not substantially interfere with the printing and distribution

1 of the ballot pamphlet as required by law. Venue for a proceeding
2 under this section shall be exclusively in Sacramento County. The
3 Secretary of State shall be named as the respondent and the State
4 Printer and the person or official who authored the copy in question
5 shall be named as real parties in interest. If the proceeding is
6 initiated by the Secretary of State, the State Printer shall be named
7 as the respondent.

8 SEC. 20. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 SEC. 21. The Legislature finds and declares that this bill
18 furthers the purposes of the Political Reform Act of 1974 within
19 the meaning of subdivision (a) of Section 81012 of the Government
20 Code.

O

EXHIBIT B

Introduced by Senator Steinberg

February 20, 2014

An act to amend Sections 101, 303.5, 9002, 9004, 9005, 9014, 9033, 9034, 9051, 9082.7, 9092, 9094.5, and 9604 of the Elections Code, and to amend Section 88006 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1253, as introduced, 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. Existing law, including provisions of the Political Reform Act of 1974, requires the Secretary of State to make a copy of the ballot pamphlet available for public examination at least 20 days before the Secretary of State submits the copy to the State Printer.

This bill would impose specified requirements with respect to the ballot materials required to be prepared by the Attorney General. The bill would extend the number of days, from 20 to 25, that the Secretary of State is required to make the copy of the ballot pamphlet available for public examination.

(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 300 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 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) 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.

(9) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. 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 Measure 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
17 information about the individuals and groups behind each measure.

18 This would give voters updated information about who is spending

1 large sums of money to support or oppose each initiative measure.
2 Voters would also be allowed to request an electronic copy of
3 ballot materials, thereby reducing the expenses of printing and
4 mailing.

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

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

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

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

27

28

“NOTICE TO THE PUBLIC

29

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

33

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

36

37 “THE PROPONENTS OF THIS PROPOSED INITIATIVE
38 MEASURE HAVE THE RIGHT TO WITHDRAW THIS PETITION
39 AT ANY TIME BEFORE THE MEASURE QUALIFIES FOR THE
40 BALLOT.”

1
2 SEC. 4. Section 303.5 of the Elections Code is amended to
3 read:

4 303.5. (a) “Ballot title” is the name of a statewide measure
5 included in the ballot label and the ballot title and summary.

6 (b) “Ballot title and summary” means the summary of the chief
7 purpose and points, including the fiscal impact summary, of any
8 measure that appears in the state ballot pamphlet. The ballot title
9 and summary shall include a statement of the measure’s fiscal
10 impact. ~~This~~ *The ballot title and summary shall not exceed 100*
11 ~~words, be not less than 25 words and not more than 150 words in~~
12 *length, not including the fiscal impact statement.*

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

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

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

21 (2) The circulating title and summary shall ~~not exceed 100~~
22 ~~words, be not less than 25 words and not more than 150 words in~~
23 *length, not including the fiscal impact summary.*

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

25 ~~9002.—(a) The Attorney General shall provide a copy of the~~
26 ~~title and summary to the Secretary of State within 15 days after~~
27 ~~receipt of the final version of a proposed initiative measure, or, if~~
28 ~~a fiscal estimate or opinion is to be included, within 15 days after~~
29 ~~receipt of the fiscal estimate or opinion prepared by the Department~~
30 ~~of Finance and the Joint Legislative Budget Committee pursuant~~
31 ~~to Section 9005. If during the 15-day period the proponents of the~~
32 ~~proposed initiative measure submit amendments, other than~~
33 ~~technical, nonsubstantive amendments, to the final version of the~~
34 ~~measure, the Attorney General shall provide a copy of the title and~~
35 ~~summary to the Secretary of State within 15 days after receipt of~~
36 ~~the amendments.~~

37 *9002. (a) Upon receipt of a request from the proponents of a*
38 *proposed initiative measure for a circulating title and summary,*
39 *the Attorney General shall initiate a public review process for a*
40 *period of 30 days by doing all of the following:*

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

3 (2) Promoting public participation by inviting on the Attorney
4 General's Internet Web site written public comments on the
5 proposed initiative measure. The site shall accept written public
6 comments for the duration of the public review period. Public
7 comments may address perceived errors in the drafting of, or
8 perceived unintended consequences of, the proposed initiative
9 measure. The Attorney General shall transmit any written public
10 comments received during the public review period to the
11 proponents of the proposed initiative measure.

12 (b) During the public review period, the proponents of the
13 proposed initiative measure may submit amendments to the
14 measure.

15 ~~(b) The amendment must~~

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

19 ~~(e) The~~

20 (2) An amendment ~~must~~ shall be submitted to the Attorney
21 General's Initiative Coordinator located in the Sacramento Attorney
22 General's Sacramento Office via ~~U.S.~~ United States Postal Service,
23 alternative mail service, or personal delivery. Only printed
24 documents ~~will~~ shall be ~~accepted;~~ accepted; facsimile or e-mail
25 delivery ~~will~~ shall not be accepted.

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

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

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

34 9004. (a) Upon receipt of the text of a proposed initiative
35 measure, and after the public review period provided for in Section
36 9002, the Attorney General shall prepare a circulating title and
37 summary of the chief purposes and points of the proposed measure.
38 The circulating title and summary shall ~~not exceed a total of 100~~
39 ~~words be not less than 25 words and not more than 150 words in~~
40 length. The Attorney General shall also provide a unique numeric

1 identifier for each proposed initiative measure. The circulating
2 title and summary shall be prepared in the manner provided for
3 the preparation of ballot titles and summaries in Article 5
4 (commencing with Section 9050), the provisions of which, in
5 regard to the preparation, filing, and settlement of ballot titles and
6 summaries, are hereby made applicable to the circulating title and
7 summary.

8 (b) The Attorney General shall provide a copy of the circulating
9 title and summary and its unique numeric identifier to the
10 proponents and to the Secretary of State within 15 days after receipt
11 of the fiscal estimate or opinion prepared by the Department of
12 Finance and the ~~Joint Legislative Budget Committee~~ *Legislative*
13 *Analyst* pursuant to Section 9005. The date the copy is delivered
14 or mailed to the proponents is the “official summary date.”

15 (c) Upon receipt of the circulating title and summary from the
16 Attorney General, the Secretary of State shall, within one business
17 day, notify the proponents and county elections official of each
18 county of the official summary date and provide a copy of the
19 circulating title and summary to each county elections official.
20 This notification shall also include a complete schedule showing
21 the maximum filing deadline, and the certification deadline by the
22 counties to the Secretary of State.

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

24 9005. (a) The Attorney General, in preparing a circulating title
25 and summary for a proposed initiative measure, shall, in boldface
26 print, include in the circulating title and summary either the
27 estimate of the amount of any increase or decrease in revenues or
28 costs to the state or local government, or an opinion as to whether
29 or not a substantial net change in state or local finances would
30 result if the proposed initiative is adopted.

31 (b) The estimate as required by this section shall be made jointly
32 by the Department of Finance and the ~~Joint Legislative Budget~~
33 ~~Committee~~ *Legislative Analyst*, who shall deliver the estimate to
34 the Attorney General so that he or she may include the estimate
35 in the circulating title and summary prepared by him or her.

36 (c) The estimate shall be delivered to the Attorney General
37 within ~~25 working~~ *45 days from* of the date of receipt of the final
38 ~~version~~ of the proposed initiative measure ~~from~~ by the Attorney
39 General, unless, in the opinion of both the Department of Finance
40 and the ~~Joint Legislative Budget Committee~~ *Legislative Analyst*,

1 a reasonable estimate of the net impact of the proposed initiative
2 measure cannot be prepared within the ~~25-day~~ 45-day period. In
3 the latter case, the Department of Finance and the ~~Joint Legislative~~
4 ~~Budget Committee~~ *Legislative Analyst* shall, within the ~~25-day~~
5 45-day period, give the Attorney General their opinion as to
6 whether or not a substantial net change in state or local finances
7 would result if the proposed initiative measure is adopted.

8 (d) A statement of fiscal impact prepared by the Legislative
9 Analyst pursuant to subdivision (b) of Section 12172 of the
10 Government Code may be used by the Department of Finance and
11 the ~~Joint Legislative Budget Committee~~ *Legislative Analyst* in the
12 preparation of the fiscal estimate or the opinion.

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

14 9014. A petition for a proposed initiative measure or
15 referendum shall not be circulated for signatures ~~prior to~~ *before*
16 the official summary date. A petition with signatures on a proposed
17 initiative measure shall be filed with the county elections official
18 not later than ~~150~~ 300 days from the official summary date, and
19 ~~no~~ a county elections official shall *not* accept a petition ~~on~~ *for* the
20 proposed initiative measure after that period. A petition for a
21 proposed referendum measure shall be filed with the county
22 elections officials not later than 90 days from the date the
23 legislative bill was chaptered by the Secretary of State, and a
24 county elections official shall not accept a petition for the proposed
25 referendum after that period.

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

27 9033. (a) When the Secretary of State has received from one
28 or more elections officials or registrars a petition, certified as herein
29 provided to have been signed by the requisite number of qualified
30 voters, the Secretary of State shall forthwith notify the proponents
31 and immediately transmit to the elections official or registrar of
32 voters of every county or city and county in the state; a ~~certificate~~
33 *notice of qualification* showing this fact so that signature
34 verification can be terminated. A petition shall be deemed to be
35 filed with the Secretary of State upon the date of the receipt by the
36 Secretary of State of a certificate or certificates showing the petition
37 to be signed by the requisite number of voters of the state. Any
38 elections official shall, upon receipt of the copy, file the notification
39 for record in that office.

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

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

8 9034. (a) The proponents of a proposed initiative measure
9 shall submit a certification, signed under penalty of perjury, to
10 the Secretary of State immediately upon the collection of 25 percent
11 of the number of signatures needed to qualify the initiative measure
12 for the ballot.

13 (b) Upon the receipt of the certification of an initiative measure
14 for the ballot, required by subdivision (a), the Secretary of State
15 shall transmit copies of the initiative measure, together with the
16 circulating title and summary as prepared by the Attorney General
17 pursuant to Section 9004, to the Senate and the Assembly. Each
18 house shall assign the initiative measure to its appropriate
19 committees. The appropriate committees shall hold joint public
20 hearings on the subject of such the measure prior to not later than
21 131 days before the date of the election at which the measure is
22 to be voted upon. However, no hearing may be held within 30 days
23 prior to the date of the election.

24 Nothing in this

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

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

30 9051. (a) (1) The ballot title and summary may differ from
31 the legislative, circulating, or other title and summary of the
32 measure and shall not exceed 100 be not less than 25 words and
33 not more than 150 words in length, not including the fiscal impact
34 statement.

35 (2) The ballot title and summary shall be amended to include a
36 summary of the Legislative Analyst's estimate of the net state and
37 local government fiscal impact prepared pursuant to Section 9087,
38 9087 of this code and Section 88003 of the Government Code.

39 (b) The ballot label shall not contain no more than 75 words
40 and shall be a condensed version of the ballot title and summary

1 including the financial impact summary prepared pursuant to
2 Section 9087 of this code and Section 88003 of the Government
3 Code.

4 (c) In providing the ballot title and summary, the Attorney
5 General shall give a true and impartial statement of the purpose
6 of the measure in such language that the ballot title and summary
7 shall neither be an argument, nor be likely to create prejudice, for
8 or against the proposed measure. *The ballot title and summary*
9 *shall also satisfy all of the following:*

10 (1) *Be written in clear and concise terms, understandable to*
11 *the average voter, and in an objective and nonpartisan manner,*
12 *avoiding the use of technical terms whenever possible.*

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

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

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

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

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

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

27 9082.7. (a) ~~The Secretary of State shall disseminate~~ *make*
28 *available the complete state ballot pamphlet over the Internet.*

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

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

34 (2) *The sources of funding for each committee formed or existing*
35 *primarily to support or oppose the ballot measure, as described*
36 *in Section 82047.5 of the Government Code.*

37 (3) *A statement identifying the 10 donors who have contributed*
38 *the largest amounts to campaigns for and against a ballot measure.*
39 *The statement shall be updated as new information becomes*
40 *available to the public pursuant to the Political Reform Act of*

1 1974 (Title 9 (commencing with Section 81000) of the Government
2 Code).

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

5 SEC. 13. Section 9092 of the Elections Code is amended to
6 read:

7 9092. Not less than 25 days before he or she submits the
8 copy for the ballot pamphlet to the State Printer, the Secretary of
9 State shall make the copy available for public examination. Any
10 elector may seek a writ of mandate requiring any copy to be
11 amended or deleted from the ballot pamphlet. A peremptory writ
12 of mandate shall issue only upon clear and convincing proof that
13 the copy in question is false, misleading, or inconsistent with the
14 requirements of this code or Chapter 8 (commencing with Section
15 88000) of Title 9 of the Government Code, and that issuance of
16 the writ will not substantially interfere with the printing and
17 distribution of the ballot pamphlet as required by law. Venue for
18 a proceeding under this section shall be exclusively in Sacramento
19 County. The Secretary of State shall be named as the respondent
20 and the State Printer and the person or official who authored the
21 copy in question shall be named as real parties in interest. If the
22 proceeding is initiated by the Secretary of State, the State Printer
23 shall be named as the respondent.

24 SEC. 14. Section 9094.5 of the Elections Code is amended to
25 read:

26 9094.5. (a) The Secretary of State shall establish a process to
27 enable a voter to opt out of receiving by mail the state ballot
28 pamphlet prepared pursuant to Section 9081 *and to instead receive*
29 *the state ballot pamphlet in an electronic format.* This process
30 shall become effective only after the Secretary of State certifies
31 that the state has a statewide voter registration database that
32 complies with the federal Help America Vote Act of 2002 (42
33 U.S.C. Sec. 15301 et seq.).

34 (b) The process described in subdivision (a) shall not apply
35 where two or more registered voters have the same postal address
36 unless each voter who shares the same postal address has chosen
37 to discontinue receiving the ballot pamphlet by mail.

38 (c) The Secretary of State shall also establish a procedure to
39 permit a voter to begin receiving the ballot pamphlet by mail again

1 after the voter has discontinued receiving it pursuant to subdivision
2 (a).

3 SEC. 15. Section 9604 of the Elections Code is amended to
4 read:

5 9604. (a) Notwithstanding any other ~~provision of~~ law, any
6 person may engage in good faith bargaining between competing
7 interests to secure legislative approval of matters embraced in a
8 statewide or local initiative or referendum measure, and the
9 proponents may, as a result of these negotiations, withdraw the
10 measure at any time before filing the petition with the appropriate
11 elections official.

12 *(b) In addition to the procedure under subdivision (a), the*
13 *proponents of a statewide initiative or referendum measure may*
14 *withdraw the measure after filing the petition with the appropriate*
15 *elections official at any time before the measure qualifies for the*
16 *ballot.*

17 ~~(b)~~

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

21 ~~(c)~~

22 (d) Withdrawal of a local initiative or referendum measure shall
23 be effective upon receipt by the appropriate local elections official
24 of a written notice of withdrawal, signed by all proponents of the
25 measure.

26 *(e) The proponents of a statewide initiative or referendum*
27 *measure shall not solicit or accept, and a person shall not offer*
28 *or pay, any money or other valuable consideration to obtain the*
29 *withdrawal of a statewide initiative or referendum measure from*
30 *the ballot. A violation of this subdivision shall be subject to the*
31 *same penalty as provided for in Section 18660.*

32 SEC. 16. Section 88006 of the Government Code is amended
33 to read:

34 88006. Not less than ~~20~~ 25 days before he or she submits the
35 copy for the ballot pamphlet to the State Printer, the Secretary of
36 State shall make the copy available for public examination. Any
37 elector may seek a writ of mandate requiring the copy to be
38 amended or deleted from the ballot pamphlet. A peremptory writ
39 of mandate shall issue only upon clear and convincing proof that
40 the copy in question is false, misleading or inconsistent with the

1 requirements of this chapter or the Elections Code, and that
2 issuance of the writ will not substantially interfere with the printing
3 and distribution of the ballot pamphlet as required by law. Venue
4 for a proceeding under this section shall be exclusively in
5 Sacramento County. The Secretary of State shall be named as the
6 respondent and the State Printer and the person or official who
7 authored the copy in question shall be named as real parties in
8 interest. If the proceeding is initiated by the Secretary of State, the
9 State Printer shall be named as the respondent.

10 SEC. 17. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.

19 SEC. 18. The Legislature finds and declares that this bill
20 furthers the purposes of the Political Reform Act of 1974 within
21 the meaning of subdivision (a) of Section 81012 of the Government
22 Code.

O

EXHIBIT C

AMENDED IN ASSEMBLY AUGUST 4, 2014

AMENDED IN ASSEMBLY JULY 1, 2014

AMENDED IN ASSEMBLY JUNE 17, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 1253

**Introduced by Senator Steinberg
(Coauthors: Senators Berryhill, Cannella, Galgiani, Huff, Leno,
Lieu, Wolk, and Wyland)**

*(Coauthor: (Coauthors: Assembly Member Members Mullin,
Quirk-Silva, and Ting)*

February 20, 2014

An act to amend Sections 9, 101, 9002, 9004, 9005, 9014, 9030, 9031, 9033, 9034, 9051, 9082.7, 9092, 9094.5, 9604, and 18621 of the Elections Code, and to amend Section 88006 of the Government 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 50 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. Existing law, including provisions of the Political Reform Act of 1974, requires the Secretary of State to make a copy of the ballot pamphlet available for public examination at least 20 days before the Secretary of State submits the copy to the State Printer.

This bill would impose specified requirements with respect to the ballot materials required to be prepared by the Attorney General. The bill would extend the number of days, from 20 to 25, that the Secretary of State is required to make the copy of the ballot pamphlet available for public examination.

(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 directing that signature verification be terminated. The bill would require the Secretary of State to identify the date of the next statewide election and, on the 131st day prior to that election, to issue a certificate of qualification certifying that the initiative measure is qualified for the ballot at that election. The bill would provide that, upon the issuance of that certification, the initiative measure would be deemed qualified for the ballot for purposes of specified provisions of the California Constitution.

(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 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.

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

~~The~~ *This* 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.

(9) This bill would incorporate additional changes to Section 9031 of the Elections Code proposed by AB 2219 that would become operative if this bill and AB 2219 are both enacted and this bill is enacted last. The bill would also incorporate additional changes to Section 18621 of the Elections Code proposed by SB 1043 that would become operative if this bill and SB 1043 are both enacted and this bill is enacted last.

~~(9)~~

(10) 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.

~~(10)~~

(11) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes

upon a 2/3 vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: 2/3. 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
17 information about the individuals and groups behind each measure.
18 This would give voters updated information about who is spending
19 large sums of money to support or oppose each initiative measure.
20 Voters would also be allowed to request an electronic copy of
21 ballot materials, thereby reducing the expenses of printing and
22 mailing.

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

26 (3) Identifying and correcting flaws in an initiative measure
27 before it appears on the ballot. Currently, proponents of an initiative
28 measure have few options to correct the language of an initiative
29 measure or to withdraw a petition for a proposed initiative measure,
30 even when flaws are identified. This act would give voters an
31 opportunity to comment on an initiative measure before the petition
32 is circulated for signatures. Public comment may address perceived

1 errors in the drafting of, or perceived unintended consequences
2 of, the proposed initiative measure. By extending the time for
3 gathering signatures, this act would give the Legislature the
4 opportunity to hold earlier public hearings to review initiative
5 measures. This act would also allow the proponents of an initiative
6 measure to withdraw the measure after the petition and signatures
7 are submitted to elections officials, but before the measure qualifies
8 for the ballot.

9 SEC. 3. Section 9 of the Elections Code is amended to read:

10 9. (a) Counting of words, for purposes of this code, shall be
11 as follows:

12 (1) Punctuation is not counted.

13 (2) Each word shall be counted as one word except as specified
14 in this section.

15 (3) All proper nouns, including geographical names, shall be
16 considered as one word; for example, "City and County of San
17 Francisco" shall be counted as one word.

18 (4) Each abbreviation for a word, phrase, or expression shall be
19 counted as one word.

20 (5) Hyphenated words that appear in any generally available
21 standard reference dictionary, published in the United States at
22 any time within the 10 calendar years immediately preceding the
23 election for which the words are counted, shall be considered as
24 one word. Each part of all other hyphenated words shall be counted
25 as a separate word.

26 (6) Dates shall be counted as one word.

27 (7) Any number consisting of a digit or digits shall be considered
28 as one word. Any number which is spelled, such as "one," shall
29 be considered as a separate word or words. "One" shall be counted
30 as one word whereas "one hundred" shall be counted as two words.
31 "100" shall be counted as one word.

32 (8) Telephone numbers shall be counted as one word.

33 (9) Internet Web site addresses shall be counted as one word.

34 (b) This section shall not apply to counting words for ballot
35 designations under Section 13107.

36 SEC. 4. Section 101 of the Elections Code is amended to read:

37 101. (a) Notwithstanding any other law, a state or local
38 initiative petition required to be signed by voters shall contain in
39 12-point type, before that portion of the petition for voters'

1 signatures, printed names, and residence addresses, the following
2 language:

3

4

“NOTICE TO THE PUBLIC

5

6 THIS PETITION MAY BE CIRCULATED BY A PAID
7 SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE
8 THE RIGHT TO ASK.”

9

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

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“THE PROPONENTS OF THIS PROPOSED INITIATIVE
MEASURE HAVE THE RIGHT TO WITHDRAW THIS
PETITION AT ANY TIME BEFORE THE MEASURE
QUALIFIES FOR THE BALLOT.”

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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) Inviting, and providing for the submission of, written public
comments on the proposed initiative measure on the Attorney
General’s Internet Web site. The site shall accept written public
comments for the duration of the public review period. The written
public comments shall be public records, available for inspection
upon request pursuant to Chapter 3.5 (commencing with Section
6250) of Division 7 of Title 1 of the Government Code, but shall
not be displayed to the public on the Attorney General’s Internet
Web site during the public review period. The Attorney General
shall transmit any written public comments received during the
public review period to the proponents of the proposed initiative
measure.

(b) During the public review period, the proponents of the
proposed initiative measure may submit amendments to the
measure that further its purposes, as determined by the Attorney
General are reasonably germane to the theme, purpose, or subject

1 *of the initiative measure as originally proposed. However,*
2 *amendments shall not be submitted if the initiative measure as*
3 *originally proposed would not effect a substantive change in law.*

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

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

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

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

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

20 9004. (a) Upon receipt of the text of a proposed initiative
21 measure, and after the public review period provided for in Section
22 9002, the Attorney General shall prepare a circulating title and
23 summary of the chief purposes and points of the proposed measure.
24 The circulating title and summary shall not exceed 100 words. The
25 Attorney General shall also provide a unique numeric identifier
26 for each proposed initiative measure. The circulating title and
27 summary shall be prepared in the manner provided for the
28 preparation of ballot titles and summaries in Article 5 (commencing
29 with Section 9050), the provisions of which, in regard to the
30 preparation, filing, and settlement of ballot titles and summaries,
31 are applicable to the circulating title and summary.

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

39 (c) Upon receipt of the circulating title and summary from the
40 Attorney General, the Secretary of State shall, within one business

1 day, notify the proponents and county elections official of each
2 county of the official summary date and provide a copy of the
3 circulating title and summary to each county elections official.
4 This notification shall also include a complete schedule showing
5 the maximum filing deadline, and the certification deadline by the
6 counties to the Secretary of State.

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

8 9005. (a) The Attorney General, in preparing a circulating title
9 and summary for a proposed initiative measure, shall, in boldface
10 print, include in the circulating title and summary either the
11 estimate of the amount of any increase or decrease in revenues or
12 costs to the state or local government, or an opinion as to whether
13 or not a substantial net change in state or local finances would
14 result if the proposed initiative is adopted.

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

20 (c) The estimate shall be delivered to the Attorney General
21 within 50 days of the date of receipt of the proposed initiative
22 measure by the Attorney General, unless, in the opinion of both
23 the Department of Finance and the Legislative Analyst, a
24 reasonable estimate of the net impact of the proposed initiative
25 measure cannot be prepared within the 50-day period. In the latter
26 case, the Department of Finance and the Legislative Analyst shall,
27 within the 50-day period, give the Attorney General their opinion
28 as to whether or not a substantial net change in state or local
29 finances would result if the proposed initiative measure is adopted.

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

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

36 ~~9014. A petition for a proposed initiative measure or~~
37 ~~referendum shall not be circulated for signatures before the official~~
38 ~~summary date. A petition with signatures on a proposed initiative~~
39 ~~measure shall be filed with the county elections official not later~~
40 ~~than 180 days from the official summary date, and a county~~

1 ~~elections official shall not accept a petition for the proposed~~
2 ~~initiative measure after that period. A petition for a proposed~~
3 ~~referendum measure shall be filed with the county elections~~
4 ~~officials not later than 90 days from the date the legislative bill~~
5 ~~was chaptered by the Secretary of State, and a county elections~~
6 ~~official shall not accept a petition for the proposed referendum~~
7 ~~after that period.~~

8 *SEC. 8. Section 9014 of the Elections Code, as amended by*
9 *Section 2 of Chapter 106 of the Statutes of 2014, is amended to*
10 *read:*

11 9014. (a) A petition for a proposed initiative or referendum
12 measure shall not be circulated for signatures prior to the official
13 summary date.

14 (b) Subject to subdivision (d), a petition with signatures for a
15 proposed initiative measure shall be filed with the county elections
16 official not later than ~~150~~ 180 days from the official summary date,
17 and a county elections official shall not accept a petition for the
18 proposed initiative measure after that period.

19 (c) Subject to subdivision (d), a petition for a proposed
20 referendum measure shall be filed with the county elections official
21 not later than 90 days from the date the legislative bill was
22 chaptered by the Secretary of State, and a county elections official
23 shall not accept a petition for the proposed referendum measure
24 after that period.

25 (d) If the last day to file a petition pursuant to subdivision (b)
26 or (c) is a holiday, as defined in Chapter 7 (commencing with
27 Section 6700) of Division 7 of Title 1 of the Government Code,
28 the petition may be filed with the county elections official on the
29 next business day.

30 *SEC. 9. Section 9030 of the Elections Code is amended to read:*

31 9030. (a) Each section of the petition shall be filed with the
32 elections official of the county or city and county in which it was
33 circulated, but all sections circulated in any county or city and
34 county shall be filed at the same time. Once filed, no petition
35 section shall be amended except by order of a court of competent
36 jurisdiction.

37 (b) Within eight days after the filing of the petition, excluding
38 Saturdays, Sundays, and holidays, the elections official shall
39 determine the total number of signatures affixed to the petition
40 and shall transmit this information to the Secretary of State. If the

1 total number of signatures filed with all elections officials is less
2 than 100 percent of the number of qualified voters required to find
3 the petition sufficient, the Secretary of State shall so notify the
4 proponents and the elections officials, and no further action shall
5 be taken with regard to the petition.

6 (c) If the number of signatures filed with all elections officials
7 is 100 percent or more of the number of qualified voters needed
8 to declare the petition sufficient, the Secretary of State shall
9 immediately so notify the elections officials.

10 (d) Within 30 days after this notification, excluding Saturdays,
11 Sundays, and holidays, the elections official shall determine the
12 number of qualified voters who have signed the petition. If more
13 than 500 names have been signed on sections of the petition filed
14 with an elections official, the elections official shall use a random
15 sampling technique for verification of signatures, as determined
16 by the Secretary of State. The random sample of signatures to be
17 verified shall be drawn in such a manner that every signature filed
18 with the elections official shall be given an equal opportunity to
19 be included in the sample. The random sampling shall include an
20 examination of at least 500 or 3 percent of the signatures,
21 whichever is greater. In determining from the records of registration
22 what number of qualified voters have signed the petition, the
23 elections official may use the duplicate file of affidavits of
24 registered voters or the facsimiles of voters' signatures, provided
25 that the method of preparing and displaying the facsimiles complies
26 with law.

27 (e) The elections official, upon the completion of the
28 examination, shall immediately attach to the petition, except the
29 signatures thereto appended, a properly dated certificate, showing
30 the result of the examination, and shall immediately transmit the
31 petition and the certificate to the Secretary of State. A copy of this
32 certificate shall be filed in the elections official's office.

33 (f) If the certificates received from all elections officials by the
34 Secretary of State establish that the number of valid signatures
35 does not equal 95 percent of the number of qualified voters needed
36 to find the petition sufficient, the petition shall be deemed to have
37 failed to qualify, and the Secretary of State shall immediately so
38 notify the proponents and the elections officials.

39 (g) If the certificates received from all elections officials by the
40 Secretary of State total more than 110 percent of the number of

1 qualified voters needed to find the petition sufficient, the Secretary
2 of State shall certify that the measure is qualified for the ballot as
3 provided in Section 9033.

4 SEC. 10. Section 9031 of the Elections Code is amended to
5 read:

6 9031. (a) If the statistical sampling shows that the number of
7 valid signatures is within 95 to 110 percent of the number of
8 signatures of qualified voters needed to declare the petition
9 sufficient, the Secretary of State shall order the examination and
10 verification of each signature filed, and shall so notify the elections
11 officials.

12 (b) Within 30 days, excluding Saturdays, Sundays, and holidays,
13 after receipt of the order, the elections official or registrar of voters
14 shall determine from the records of registration what number of
15 qualified voters have signed the petition and if necessary the board
16 of supervisors shall allow the elections official or registrar
17 additional assistance for the purpose of examining the petition and
18 provide for their compensation. In determining from the records
19 of registration what number of qualified voters have signed the
20 petition, the elections official or registrar of voters may use any
21 file or list of registered voters maintained by his or her office, or
22 the facsimiles of voters' signatures, provided that the method of
23 preparing and displaying the facsimiles complies with law.

24 (c) The elections official or registrar, upon the completion of
25 the examination, shall immediately attach to the petition, except
26 the signatures thereto appended, an amended certificate properly
27 dated, showing the result of the examination and shall immediately
28 transmit the petition, together with the amended certificate, to the
29 Secretary of State. A copy of the amended certificate shall be filed
30 in the elections official's office.

31 (d) (1) If the amended certificates establish the petition's
32 sufficiency, the Secretary of State shall certify that the measure is
33 qualified for the ballot as provided in Section 9033.

34 (2) If the amended certificates received from all elections
35 officials by the Secretary of State establish that the petition has
36 still been found insufficient, the Secretary of State shall
37 immediately so notify the proponents and the elections officials.

38 SEC. 10.5. Section 9031 of the Elections Code is amended to
39 read:

1 9031. (a) If the statistical sampling shows that the number of
2 valid signatures is within 95 to 110 percent of the number of
3 signatures of qualified voters needed to declare the petition
4 sufficient, the Secretary of State shall order the examination and
5 verification of ~~each signature~~ *the signatures* filed, and shall so
6 notify the elections officials.

7 (b) Within 30 days, excluding Saturdays, Sundays, and holidays,
8 after receipt of the order, the elections official or registrar of voters
9 shall determine from the records of registration what number of
10 qualified voters have signed the petition and if necessary the board
11 of supervisors shall allow the elections official or registrar
12 additional assistance for the purpose of examining the petition and
13 provide for their compensation. In determining from the records
14 of registration what number of qualified voters have signed the
15 petition, the elections official or registrar of voters may use any
16 file or list of registered voters maintained by his or her office, or
17 the facsimiles of voters' signatures, provided that the method of
18 preparing and displaying the facsimiles complies with law.

19 (c) (1) *During the examination and verification of the signatures*
20 *filed, the elections official or registrar of voters shall submit one*
21 *or more reports to the Secretary of State showing the number of*
22 *signatures of qualified voters that have been verified as of that*
23 *date. The Secretary of State shall determine the number of reports*
24 *required to be submitted and the manner of their submission.*

25 (2) *The Secretary of State shall maintain a list indicating the*
26 *number of verified signatures of qualified voters who have signed*
27 *the petition based on the most recent reports submitted pursuant*
28 *to paragraph (1). If the Secretary of State determines, prior to*
29 *each county's completing the examination of each signature filed,*
30 *that based on the list the petition is signed by the requisite number*
31 *of voters needed to declare the petition sufficient, the Secretary of*
32 *State shall immediately notify the elections official or registrar of*
33 *voters of every county or city and county in the state of this fact.*
34 *Immediately after receipt of this notification, the elections official*
35 *or registrar of voters may suspend signature verification until*
36 *receipt of a certificate pursuant to Section 9033 or until otherwise*
37 *instructed by the Secretary of State.*

38 (e)

39 (d) The elections official or registrar, upon the completion of
40 the examination or notification pursuant to paragraph (2) of

1 *subdivision (c)*, shall immediately attach to the petition, except the
2 signatures thereto appended, an amended certificate properly dated,
3 showing the result of the examination and shall immediately
4 transmit the petition, together with the amended certificate, to the
5 Secretary of State. A copy of the amended certificate shall be filed
6 in the elections official's office.

7 (d)

8 (e) (1) If the amended certificates establish the petition's
9 sufficiency, ~~the petition shall be deemed to be filed as of the date~~
10 ~~of receipt by the Secretary of State of certificates showing the~~
11 ~~petition to be signed by the requisite number of voters of the state~~
12 *shall certify that the measure is qualified for the ballot as provided*
13 *in Section 9033.*

14 f

15 (2) If the amended certificates received from all elections
16 officials by the Secretary of State establish that the petition has
17 still been found insufficient, the Secretary of State shall
18 immediately so notify the proponents and the elections officials.

19 SEC. 11. Section 9033 of the Elections Code is amended to
20 read:

21 9033. (a) When the Secretary of State has received from one
22 or more elections officials or registrars a petition, certified to have
23 been signed by the requisite number of qualified voters, the
24 Secretary of State shall forthwith notify the proponents and
25 immediately transmit to the elections official or registrar of voters
26 of every county or city and county in the state a notice directing
27 that signature verification be terminated.

28 (b) (1) In the case of an initiative measure, the Secretary of
29 State shall identify the date of the next statewide general election
30 as defined in subdivision (a) of Section 9016, or the next special
31 statewide election, that will occur not less than 131 days after the
32 date the Secretary of State receives a petition certified to have been
33 signed by the requisite number of qualified voters.

34 (2) On the 131st day prior to the date of the election identified
35 pursuant to paragraph (1), the Secretary of State shall do all of the
36 following:

37 (A) Issue a certificate of qualification certifying that the
38 initiative measure, as of that date, is qualified for the ballot at the
39 election identified pursuant to paragraph (1).

1 (B) Notify the proponents of the initiative measure and the
2 elections official of each county that the measure, as of that date,
3 is qualified for the ballot at the election identified pursuant to
4 paragraph (1).

5 (C) Include the initiative measure in a list of all statewide
6 initiative measures that are eligible to be placed on the ballot at
7 the election identified pursuant to paragraph (1) and publish the
8 list on the Secretary of State's Internet Web site.

9 (3) Upon the issuance of a certificate of qualification pursuant
10 to paragraph (2), an initiative measure shall be deemed qualified
11 for the ballot for purposes of subdivision (c) of Section 8 of Article
12 II of the California Constitution.

13 (c) (1) In the case of a referendum measure, upon receipt of a
14 petition certified to have been signed by the requisite number of
15 qualified voters, the Secretary of State shall do all of the following:

16 (A) Issue a certificate of qualification certifying that the
17 referendum measure, as of that date, is qualified for the ballot.

18 (B) Notify the proponents of the referendum measure and the
19 elections official of each county that the measure, as of that date,
20 is qualified for the ballot.

21 (C) Include the referendum measure in a list of all statewide
22 referendum measures that have qualified for the ballot and publish
23 the list on the Secretary of State's Internet Web site.

24 (2) Upon the issuance of a certificate of qualification pursuant
25 to paragraph (1), a referendum measure shall be deemed qualified
26 for the ballot for purposes of subdivision (c) of Section 9 of Article
27 II of the California Constitution.

28 SEC. 12. Section 9034 of the Elections Code is amended to
29 read:

30 9034. (a) The proponents of a proposed initiative measure
31 shall submit a certification, signed under penalty of perjury, to the
32 Secretary of State immediately upon the collection of 25 percent
33 of the number of signatures needed to qualify the initiative measure
34 for the ballot.

35 (b) Upon the receipt of the certification required by subdivision
36 (a), the Secretary of State shall transmit copies of the initiative
37 measure, together with the circulating title and summary as
38 prepared by the Attorney General pursuant to Section 9004, to the
39 Senate and the Assembly. Each house shall assign the initiative
40 measure to its appropriate committees. The appropriate committees

1 shall hold joint public hearings on the subject of the measure not
2 later than 131 days before the date of the election at which the
3 measure is to be voted upon.

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

7 SEC. 13. Section 9051 of the Elections Code is amended to
8 read:

9 9051. (a) (1) The ballot title and summary may differ from
10 the legislative, circulating, or other title and summary of the
11 measure and shall not exceed 100 words, not including the fiscal
12 impact statement.

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

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

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

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

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

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

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

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

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

3 SEC. 14. Section 9082.7 of the Elections Code is amended to
4 read:

5 9082.7. (a) The Secretary of State shall make available the
6 complete state ballot pamphlet over the Internet.

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

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

13 (2) A current list of the top 10 contributors supporting and
14 opposing the ballot measure, as compiled by the Fair Political
15 Practices Commission pursuant to subdivision (e) of Section 84223
16 of the Government Code.

17 (3) (A) A list of each committee primarily formed to support
18 or oppose the ballot measure, as described in Section 82047.5 of
19 the Government Code, and a means to access information about
20 the sources of contributions reported for each committee.

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

25 (C) If a committee identified in subparagraph (A) receives at
26 least one million dollars (\$1,000,000) in contributions for an
27 election, the Secretary of State shall provide a means to access
28 online information about the committee's top 10 contributors
29 reported to the Fair Political Practices Commission pursuant to
30 subdivision (a) of Section 84223 of the Government Code.

31 (D) Notwithstanding paragraph (1) of subdivision (c) of Section
32 84223 of the Government Code, the Fair Political Practices
33 Commission shall automatically provide any list of top 10
34 contributors created pursuant to Section 84223 of the Government
35 Code, and any subsequent updates to that list, to the Secretary of
36 State for purposes of compliance with this section.

37 (4) Any other information deemed relevant by the Secretary of
38 State.

39 SEC. 15. Section 9092 of the Elections Code is amended to
40 read:

1 9092. Not less than 25 days before he or she submits the copy
2 for the ballot pamphlet to the State Printer, the Secretary of State
3 shall make the copy available for public examination. Any elector
4 may seek a writ of mandate requiring any copy to be amended or
5 deleted from the ballot pamphlet. A peremptory writ of mandate
6 shall issue only upon clear and convincing proof that the copy in
7 question is false, misleading, or inconsistent with the requirements
8 of this code or Chapter 8 (commencing with Section 88000) of
9 Title 9 of the Government Code, and that issuance of the writ will
10 not substantially interfere with the printing and distribution of the
11 ballot pamphlet as required by law. Venue for a proceeding under
12 this section shall be exclusively in Sacramento County. The
13 Secretary of State shall be named as the respondent and the State
14 Printer and the person or official who authored the copy in question
15 shall be named as real parties in interest. If the proceeding is
16 initiated by the Secretary of State, the State Printer shall be named
17 as the respondent.

18 SEC. 16. Section 9094.5 of the Elections Code is amended to
19 read:

20 9094.5. (a) The Secretary of State shall establish processes to
21 enable a voter to do both of the following:

22 (1) Opt out of receiving by mail the state ballot pamphlet
23 prepared pursuant to Section 9081.

24 (2) When the state ballot pamphlet is available, receive either
25 the state ballot pamphlet in an electronic format or an electronic
26 notification making the pamphlet available by means of online
27 access.

28 (b) The processes described in subdivision (a) shall become
29 effective only after the Secretary of State certifies that the state
30 has a statewide voter registration database that complies with the
31 federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et
32 seq.).

33 (c) The processes described in subdivision (a) shall not apply
34 where two or more registered voters have the same postal address
35 unless each voter who shares the same postal address has chosen
36 to discontinue receiving the ballot pamphlet by mail.

37 (d) The Secretary of State shall also establish a procedure to
38 permit a voter to begin receiving the ballot pamphlet by mail again
39 after the voter has discontinued receiving it pursuant to subdivision
40 (a).

1 SEC. 17. Section 9604 of the Elections Code is amended to
2 read:

3 9604. (a) Notwithstanding any other law, any person may
4 engage in good faith bargaining between competing interests to
5 secure legislative approval of matters embraced in a statewide or
6 local initiative or referendum measure, and the proponents may,
7 as a result of these negotiations, withdraw the measure at any time
8 before filing the petition with the appropriate elections official.

9 (b) In addition to the procedure under subdivision (a), the
10 proponents of a statewide initiative or referendum measure may
11 withdraw the measure after filing the petition with the appropriate
12 elections official at any time before the Secretary of State certifies
13 that the measure has qualified for the ballot pursuant to Section
14 9033.

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

18 (d) Withdrawal of a local initiative or referendum measure shall
19 be effective upon receipt by the appropriate local elections official
20 of a written notice of withdrawal, signed by all proponents of the
21 measure.

22 SEC. 18. Section 18621 of the Elections Code is amended to
23 read:

24 18621. Any proponent of an initiative or referendum measure
25 or recall petition who seeks, solicits, bargains for, or obtains any
26 money or thing of value of or from any person, firm, or corporation
27 for the purpose of abandoning the same or stopping the circulation
28 of petitions concerning the same, or failing or neglecting or
29 refusing to file the measure or petition in the office of the elections
30 official or other officer designated by law within the time required
31 by law after obtaining the number of signatures required under the
32 law to qualify the measure or petition, or withdrawing an initiative
33 petition after filing it with the appropriate elections official, or
34 performing any act that will prevent or aid in preventing the
35 initiative, referendum, or recall proposed from qualifying as an
36 initiative or referendum measure, or resulting in a recall election
37 is punishable by a fine not exceeding five thousand dollars (\$5,000)
38 or by imprisonment pursuant to subdivision (h) of Section 1170
39 of the Penal Code for 16 months or two or three years, or in a

1 county jail not exceeding one year, or by both that fine and
2 imprisonment.

3 *SEC. 18.5. Section 18621 of the Elections Code is amended to*
4 *read:*

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

25 *SEC. 19. Section 88006 of the Government Code is amended*
26 *to read:*

27 88006. Not less than 25 days before he or she submits the copy
28 for the ballot pamphlet to the State Printer, the Secretary of State
29 shall make the copy available for public examination. Any elector
30 may seek a writ of mandate requiring the copy to be amended or
31 deleted from the ballot pamphlet. A peremptory writ of mandate
32 shall issue only upon clear and convincing proof that the copy in
33 question is false, misleading or inconsistent with the requirements
34 of this chapter or the Elections Code, and that issuance of the writ
35 will not substantially interfere with the printing and distribution
36 of the ballot pamphlet as required by law. Venue for a proceeding
37 under this section shall be exclusively in Sacramento County. The
38 Secretary of State shall be named as the respondent and the State
39 Printer and the person or official who authored the copy in question
40 shall be named as real parties in interest. If the proceeding is

1 initiated by the Secretary of State, the State Printer shall be named
2 as the respondent.

3 *SEC. 20. Section 10.5 of this bill incorporates amendments to*
4 *Section 9031 of the Elections Code proposed by both this bill and*
5 *Assembly Bill 2219. It shall only become operative if (1) both bills*
6 *are enacted and become effective on or before January 1, 2015,*
7 *(2) each bill amends Section 9031 of the Elections Code, and (3)*
8 *this bill is enacted after Assembly Bill 2219, in which case Section*
9 *10 of this bill shall not become operative.*

10 *SEC. 21. Section 18.5 of this bill incorporates amendments to*
11 *Section 18621 of the Elections Code proposed by both this bill*
12 *and Senate Bill 1043. It shall only become operative if (1) both*
13 *bills are enacted and become effective on or before January 1,*
14 *2015, (2) each bill amends Section 18621 of the Elections Code,*
15 *and (3) this bill is enacted after Senate Bill 1043, in which case*
16 *Section 18 of this bill shall not become operative.*

17 ~~SEC. 20.~~

18 *SEC. 22. No reimbursement is required by this act pursuant to*
19 *Section 6 of Article XIII B of the California Constitution because*
20 *the only costs that may be incurred by a local agency or school*
21 *district will be incurred because this act creates a new crime or*
22 *infraction, eliminates a crime or infraction, or changes the penalty*
23 *for a crime or infraction, within the meaning of Section 17556 of*
24 *the Government Code, or changes the definition of a crime within*
25 *the meaning of Section 6 of Article XIII B of the California*
26 *Constitution.*

27 ~~SEC. 21.~~

28 *SEC. 23. The Legislature finds and declares that this bill*
29 *furtheres the purposes of the Political Reform Act of 1974 within*
30 *the meaning of subdivision (a) of Section 81012 of the Government*
31 *Code.*

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PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On February 22, 2016, I served a true copy of the following document(s):

Request for Judicial Notice; Declaration of Michael Narciso in Support of Opposition of Real Parties in Interest to Verified Petition for Writ of Mandate

on the following party(ies) in said action:

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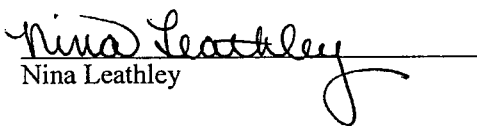
*Attorneys for Respondents Attorney General of
the State of California and Kamala Harris*

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
 - depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 22, 2016, in San Leandro, California.


Nina Leathley

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[EXEMPT FROM FILING FEES
(GOV. CODE, § 6103)]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

**CALIFORNIA DISTRICT ATTORNEYS
ASSOCIATION, and ANNE MARIE
SCHUBERT, an individual and in her
personal capacity,**

Petitioners,

v.

**ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA, KAMALA HARRIS, in
her official capacity only; and DOES I-X,
inclusive,**

Respondents,

**MARGARET R. PRINZING and HARRY
BEREZIN,**

Real Parties In Interest.

Case No. 34-2016-80002293

**ATTORNEY GENERAL'S OPPOSITION
TO VERIFIED PETITION FOR WRIT
OF MANDATE**

Election Matter: Elections Code § 13314

Date: Feb. 24, 2016
Time: 3:30 p.m.
Dept: 24
Judge: Hon. Shelleyanne W.L. Chang

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1 **I. INTRODUCTION**

2 Petitioners seek an order that would delay and impede the initiative process on the grounds
3 that the public has been deprived of any meaningful opportunity to comment on “The Public
4 Safety and Rehabilitation Act” (initiative number 15-0121A1), which was amended by the
5 proponents after the close of the public comment period. The writ should be denied because the
6 amendments were submitted on time and, as required by law, they are “reasonably germane to the
7 theme, purpose, or subject of the initiative measure as originally proposed.” (Elec. Code, § 9002,
8 subd. (b)).

9 Petitioners’ arguments lack merit. Petitioners urge an unduly restrictive reading of the
10 “germaneness” requirement and ignore that it was based directly on cases explicating the single
11 subject rule, which is extremely broad and flexible. Ballot measure proponents may submit any
12 amendments, even sweeping, substantive changes—and they may do so *after* the close of the
13 public comment period—provided the amendments are reasonably germane to the theme,
14 purpose, or subject of the measure as originally proposed. Petitioners are incorrect that
15 amendments are limited to changes that correct perceived legal flaws or otherwise address
16 comments submitted by the public.

17 Petitioners also inaccurately describe the measure, arguing that the original was strictly
18 limited to reforming the juvenile justice system, and that the amendments transformed it beyond
19 recognition by proposing changes to criminal sentencing laws applicable to adults. The Court
20 should not be misled. The measure, as amended, continues to focus on the same theme, purpose,
21 and subject of promoting rehabilitation and enhancing public safety, with a special emphasis on
22 youthful offenders, many of whom are prosecuted and sentenced as adults. The requested writ
23 should be denied.

24 **II. BACKGROUND**

25 **A. Senate Bill 1253**

26 In 2014, the Legislature adopted Senate Bill 1253, the “Ballot Initiative Transparency Act,”
27 to update numerous procedures and requirements governing the submission, circulation, and
28

1 public review of ballot measures. (Stats. 2014, ch. 697, § 2(b).) Of particular relevance here, SB
2 1253 established an extended pre-qualification process for ballot measures, including:

- 3 • a 30-day public comment period on all proposed ballot measures, with comments to
4 be submitted to the Attorney General’s website and then relayed to the proponents
5 (Elec. Code, § 9002, subd. (a)(1)-(2));
- 6 • a greater opportunity for proponents to make changes to proposed measures by
7 allowing them to submit amendments up to 35 days after submission of the measure
8 (*id.*, § 9002, subds. (b), (b)(4));
- 9 • more time—180 days instead of 150—for proponents to collect enough valid
10 signatures to qualify a proposed measure for the ballot (*id.*, § 9014, subd. (b));
- 11 • an opportunity for the Legislature to hold hearings on a proposed measure before,
12 rather than after, it qualifies for the ballot (*id.*, § 9034); and
- 13 • added flexibility for proponents to withdraw a ballot measure at any time before it
14 qualifies for the ballot (*id.*, § 101, subd. (b)).

15 Overall, the Legislature sought to improve the quality of ballot measures by making it
16 easier for proponents to get feedback from the public and the Legislature and to amend and/or
17 withdraw a proposed measure “before an initiative measure appears on the ballot.” (Stats. 2014,
18 ch. 697, § 2(b)(3).)

19 The Legislature anticipated that public commenters “may address perceived errors in the
20 drafting of, or perceived unintended consequences of, the proposed initiative measures.” (Stats.
21 2014, ch. 697, § 2(b)(3).) Of critical importance, however, it imposed no limitation on what
22 public commenters might address, or on the scope of amendments submitted by proponents,
23 except that they be “reasonably germane to the theme, purpose, or subject of the initiative
24 measure as originally proposed.” (Elec. Code, § 9002, subd. (b) (hereafter “Section 9002(b)”.)

25 After signature gathering has commenced, proponents must now notify elections officials as
26 soon as they have collected 25 percent of the signatures required to qualify a measure for the
27 ballot. This, in turn, triggers legislative hearings on “the subject of the measure not later than 131
28 days before the date of the election.” (Elec. Code, § 9034, subd. (b).) It was anticipated that

1 providing for legislative review during the circulation period “could lead to agreements with the
2 Legislature and withdrawal of some measures from circulation.” (Senate Floor Analysis, SB
3 1253, Aug. 22, 2014, p. 6 [attached as Exhibit C to Petitioners’ Request for Judicial Notice (Pet.
4 RJN)].) SB 1253, however, expressly provides that “this section shall not be construed as
5 authority for the Legislature to alter the initiative measure or prevent it from appearing on the
6 ballot.”

7 In sum, while SB 1253 relieved restrictions that made it difficult or impossible for
8 proponents to amend or withdraw proposed measures before they qualified for the ballot, it did
9 not change the fundamental nature of the initiative process, which has been described as a
10 “legislative battering ram which may be used to tear through the exasperating tangle of the
11 traditional legislative procedure and strike toward the desired end.” (*Amador Valley Joint Union*
12 *High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 228, quotations and citation
13 omitted.)

14 **B. The Disputed Amendments**

15 On December 22, 2015, Real Parties submitted a proposed measure called “The Justice and
16 Rehabilitation Act” to the Attorney General for preparation of circulating title and summary.
17 Upon receipt of the measure, the Attorney General assigned it a unique identifying number (15-
18 0121), and, as required by SB 1253, posted the text of the measure for public comment. (See
19 Elec. Code, § 9002, subd. (a).) On January 26, 2016, after the close of the 30-day public
20 comment period, but within the time permitted by SB 1253 (see Elec. Code, § 9002, subd. (b)(4)),
21 Real Parties submitted amendments to the measure. The Attorney General designated the
22 amended measure, now called “The Public Safety and Rehabilitation Act of 2016,” as No. 15-
23 0121A1.

24 As originally proposed, the measure focused primarily on easing statutory sentencing and
25 parole requirements for juvenile and young adult offenders (those who were 23 or younger at the
26 time of the offense), many of whom are prosecuted and sentenced as adults each year. (See 15-
27
28

1 0121, §§ 4-6, 8.)¹ The measure’s principal stated goals were to “[e]nsure that California’s
2 juvenile and criminal justice system resources are used wisely to rehabilitate and protect safety”;
3 “make us safer” by reducing “extreme sentences that fail to rehabilitate”; and “ensure that
4 California’s juvenile and criminal justice systems effectively stop repeat offending and improve
5 public safety.” (*Id.*, §§ 2, 3.)

6 The amendments focus on the same theme, purpose, and subject (see 15-0121A1, § 2),² but
7 contain new provisions that would: (1) enlarge the class of persons made eligible for earlier
8 parole consideration than would have obtained under the original version; and (2) authorize the
9 California Department of Corrections (CDCR) to expand opportunities for prisoners to earn credit
10 for rehabilitation, good behavior, and educational achievements. (*Id.*, § 3 [adding proposed
11 article I, section 32 to the California Constitution].) The amendments also change and delete
12 provisions contained in the original version dealing with procedures and requirements for
13 charging juveniles as adults (*id.*, § 4; see also 15-0121, §§ 5, 6), and delete provisions pertaining
14 to juvenile court records. (See 15-0121, § 7.)

15 Upon review, the Attorney General determined the amendments are “reasonably germane to
16 the theme, purpose, or subject of the initiative measure as originally proposed.” (§ 9002(b).)
17 Accordingly, the Attorney General began preparing the official circulating title and summary for
18 the measure as amended.³

19 The Legislative Analyst’s Office and the Department of Finance submitted their joint fiscal
20 analysis of the amended measure to the Attorney General on February 11, 2016—one day past the
21 50-day period prescribed by statute. (Elec. Code, § 9005, subd. (c).) Under SB 1253, the
22 Attorney General has fifteen days after receipt of the joint fiscal analysis to complete preparation
23 of the official circulating title and summary. (*Id.*, § 9004, subd. (b).) Thus, the deadline for

24 ¹ See Pet. RJN, Exhibit A.

25 ² *Id.*, Exhibit B.

26 ³ Section 9002(b) separately provides that a measure may not be amended if the original
27 version does not “effect a substantive change in law.” The Attorney General determined that the
28 measure, as originally proposed, would effect a substantive change in the law, and the Petitioners
do not dispute that.

1 issuance is now February 26, 2016. The Attorney General is ready to issue title and summary on
2 or before that date, subject to the Court's directives in this proceeding.

3 **III. STANDARD OF REVIEW**

4 The Court must decide whether the Attorney General abused her discretion in accepting the
5 January 26, 2016 amendments and/or issuing title and summary based on the measure as
6 amended. In determining whether an abuse of discretion has occurred, a court may not substitute
7 its judgment for that of the administrative agency, and if reasonable minds may disagree as to the
8 wisdom of the agency's action, the agency's determination must be upheld. (*Helena F. v. West*
9 *Contra Costa Unif. Sch. Dist.* (1996) 49 Cal.App.4th 1793, 1799.) An administrative decision
10 will be deemed an abuse of discretion only if it is arbitrary, capricious, entirely lacking in
11 evidentiary support, or procedurally unfair. (*Khan v. Los Angeles Employees Ret. Sys.* (2012) 187
12 Cal.App.4th 98, 106.)

13 Interpretation of Section 9002(b) presents a question of law that the Court reviews
14 independently. (*Okasaki v. City of Elk Grove* (2012) 203 Cal.App.4th 1043, 1048.) In contrast,
15 determination of the "theme, purpose, or subject of the initiative measure as originally proposed"
16 involves an exercise of judgment and discretion by the Attorney General. (Cf. *Epperson v.*
17 *Jordan* (1938) 12 Cal.2d 61, 70 [holding that discerning a ballot measure's "chief points and
18 purposes" involves an exercise of judgment and discretion by the Attorney General].)
19 Accordingly, her determination that the theme, purpose, or subject of the measure as originally
20 proposed is promoting rehabilitation and enhancing public safety is entitled to deference. (Cf.
21 *Lungren v. Superior Court* (1996) 48 Cal.App.4th 435, 439-40 [holding that "[w]ithin certain
22 limits what is and what is not an important provision is a question of opinion," and "within those
23 limits the opinion of the Attorney General should be accepted by this court"], internal quotations
24 and citations omitted.)⁴

25

26 ⁴ As set forth below, the amendments are "reasonably germane" under any reasonable
27 reading, and this case may therefore be resolved against Petitioners without determining how
28 much deference should be accorded the Attorney General's determinations under Section
9002(b).

1 IV. ARGUMENT

2 A. Both the plain terms of Section 9002(b) and cases decided under the single
3 subject rule—upon which Section 9002(b) is based—confirm the standard
4 for permissible amendments is broad and flexible.

5 On its face, Section 9002(b)'s "reasonably germane" requirement is broad and flexible.
6 "Germane" means "closely akin" or, secondarily, "relevant and appropriate." (Webster's New
7 Collegiate Dictionary (1981).) From that already generous starting point, an amendment need
8 only be "*reasonably germane*" to meet the requirement. (§ 9002(b), italics added.) Additionally,
9 an amendment need only be reasonably germane to the "theme, purpose, or subject" of the
10 measure as originally proposed; there is no requirement that an amendment bear a functional
11 and/or interlocking relationship to any operative term in the original version of the measure. The
12 term "amendments" itself is also broad enough to encompass virtually any change ranging from
13 minor modifications to new and potentially sweeping substantive additions, changes, or deletions.
14 The Legislature permitted "amendments" without limitation, including substantive, even
15 dramatic, amendments that might expand or restrict the subject(s) covered and/or the class(es) of
16 persons affected by the measure, provided the amendments are "reasonably germane" to the
17 "theme, purpose, or subject of the initiative measure as originally proposed."

18 Another strong indication that the Legislature intended a broad, flexible reading of Section
19 9002(b) lies in the fact that it was borrowed directly from judicial decisions construing the single
20 subject rule.⁵ Just as Section 9002(b) provides for amendments, the cases hold that a ballot
21 measure satisfies the single subject rule so long as its provisions are "*reasonably germane to a*
22 *common theme, purpose, or subject.*" (*Californians For An Open Primary v. McPherson* (2006)
23 38 Cal.4th 735, 764, italics added.) The single subject rule has been consistently construed "in an
24 accommodating and lenient manner so as not to unduly restrict the Legislature's or the people's
25 right to package provisions in a single bill or initiative." (*Ibid.*; accord, e.g., *Manduley v.*
26 *Superior Court* (2002) 27 Cal.4th 537, 547 [holding that "single subject rule should not be

27 ⁵ The single subject rule derives from article II, section 8, subdivision (d), of the
28 Constitution, which provides that "[a]n initiative measure embracing more than one subject may
not be submitted to the voters."

1 interpreted in an unduly narrow or restrictive fashion”].) Notwithstanding the single subject rule,
2 an initiative may propose comprehensive, “integrated reform measures” that address numerous
3 separate topics within a general area of law. (*Brosnahan v. Brown* (1982) 32 Cal.3d 236, 251; *id.*
4 at p. 246; see also, e.g., *Fair Political Practices Comm. v. Superior Court* (1979) 25 Cal.3d 33,
5 38-39 [holding that voter initiatives may “deal comprehensively and in detail with an area of
6 law”].) The Supreme Court has upheld, for example, “broad and multifaceted ‘reform’ measures
7 pertaining to the [general] subjects of probate, property taxation, and politics.” (*Brosnahan v.*
8 *Brown, supra*, 32 Cal.3d at p. 247.)⁶

9 The phrase “reasonably germane to the theme, purpose, or subject” is employed nowhere
10 else in California law, leaving no doubt that in enacting SB 1253 the Legislature borrowed that
11 phrase from the single subject cases. Thus, the Legislature must have intended a similarly broad
12 standard for determining whether amendments are sufficiently related to the original theme,
13 purpose, or subject. (See *Estate of McDill* (1975) 14 Cal.3d 831, 839 [holding Legislature is
14 “presumed to have had knowledge of existing domestic judicial decisions and to have enacted and
15 amended statutes in the light of such decisions as have a direct bearing upon them”]; see also,
16 e.g., *Estate of Sax* (1989) 214 Cal.App.3d 1300, 1304 [holding Legislature is presumed “aware of
17 the judicial interpretation of words dealing with the same or analogous topics,” and is presumed
18 to “intend the same well settled meaning of such words” in enacting statutes].)⁷

19 ⁶ The single subject rule is violated only in extreme cases where a measure contains a
20 “grabag of social, political, economic, and administrative enactments,” or joins “disparate
21 provisions which appear germane only to topics of excessive generality such as ‘government’ or
22 ‘public welfare.’” (*Brosnahan v. Brown, supra*, 32 Cal.3d at p. 253; *Manduley v. Superior Court,*
supra, 27 Cal.4th 537, 575 [holding single subject rule forbids a measure “so broad that a
virtually unlimited array of provisions could be considered germane thereto and joined in this
proposition, essentially obliterating the constitutional requirement”].)

23 ⁷ Indeed, there are good reasons to hold that Section 9002(b) provides even *more*
24 flexibility than the single subject rule. The single subject rule is designed to “minimize the risk of
25 voter confusion and deception.” (*Amador Valley Joint Union High School Dist. v. State Bd. of*
Equalization, supra, 22 Cal.3d at p. 231; accord *Californians For An Open Primary v.*
McPherson, supra, 38 Cal.4th at p. 765; *California Trial Lawyers Assn. v. Eu* (1988) 200
26 Cal.App.3d 351, 360 [single subject rule protects not just voters, but also petition signers from
27 deceptive measures], *abrogated on other grounds, Lewis v. Superior Court* (1999) 19 Cal.4th
1232.) In short, the rule protects the integrity of elections results, individual voter preference, and
28 public confidence in the initiative system. In contrast, the submission of amendments under
Section 9002(b) is an interlocutory, procedural step in the ballot measure qualification process

(continued...)

1 Finally, the opportunity for public comment under Section 9002(b) is a limited one, further
2 suggesting that the “reasonably germane” requirement should be read broadly. By providing that
3 amendments may be accepted up to five days *after* the close of the public comment period (Elec.
4 Code, § 9002, subd. (b)(4)), the Legislature clearly contemplated that some amendments would
5 not be subject to public comment, even amendments that might raise thorny and/or controversial
6 issues of law and policy, but are nonetheless “reasonably germane” to the “theme, purpose, or
7 subject of the measure as originally proposed.”

8 The reality is that *any* amendment to a ballot measure, no matter how “germane” it might
9 be, can suffer from drafting errors or have unintended consequences, just as can the original text.
10 (Cf. *McLaughlin v. State Bd. of Educ.* (1999) 75 Cal.App.4th 196, 214 [holding “the initiative
11 process itself, particularly when viewed in light of the number of existing laws that may be
12 affected by any new law and that may require amendment or repeal to avoid creating conflicts,
13 makes conflicts between the new law and existing laws virtually inevitable”].) Despite this
14 reality, the Legislature allowed amendments to be submitted close to or even after the close of the
15 public comment period without requiring repeated, iterative rounds of public comment on the
16 same measure.

17 In sum, both the plain text of Section 9002(b) and its derivation from the single subject rule
18 confirm that the “reasonably germane” requirement must be construed broadly.

19 **B. Petitioners Urge an Unduly Restrictive Reading of Section 9002(b).**

20 Petitioners apparently maintain that Section 9002(b) prohibits “broad changes to a proposed
21 ballot measure after the close of the public comment period.” (Petitioners’ Brief, p. 7.) From this
22 flawed premise, they further contend that Section 9002(b) must be “clearly different and more
23 restrictive than the broad single subject rule.” (*Id.*, p. 7.) But Petitioners are wrong about Section
24 9002(b)’s requirements. As discussed above, the Legislature permitted any amendments,

25 _____
26 (...continued)
27 that occurs before a measure is even in final form for circulation to the electors for signatures.
28 Rather than preventing voter deception, it serves the more limited purpose of making it easier for
the proponents of ballot measures to consider amendments.

1 including substantive amendments, until five days after the close of the public comment period,
2 provided they are reasonably germane. The fact that an amendment may be substantive, even
3 sweeping, does not necessarily make it any less “germane” to the “theme, purpose, or subject” of
4 the measure as originally proposed.

5 Petitioners’ related suggestion that amendments may only “correct errors and consider and
6 implement public comments into the originally filed initiative” also fails. (Petitioners’ Brief, p. 6;
7 *id.*, p. 5.) Section 9002(b) imposes no obligation on proponents to consider, let alone act on,
8 public comments. (Compare, e.g., Elec. Code, § 9051, subd. (d) [requiring Attorney General to
9 “invite and consider public comment in preparing each ballot title and summary”].) The
10 Legislature adopted Section 9002(b) to aid the proponents of ballot measures by making it easier
11 for them to obtain public input, not to give the public an iron-clad “statutory right of review,” as
12 Petitioners claim. (Petitioners’ Brief, p. 15.) Indeed, the opportunity to amend by the 35th day
13 after submission of the measure means proponents now have a greater opportunity to act on
14 public comments arriving from *any* source, not just those submitted through the Attorney
15 General’s website under Elections Code section 9002.

16 The Legislature also placed no limits on the scope of permissible amendments, other than
17 the “germaneness” requirement, and the terms of the statute, which are the best evidence of the
18 Legislature’s intent, must be enforced. (*In re Miller* (1947) 31 Cal.2d 191, 198 [holding “the
19 meaning of a statute is to be sought in the language used by the Legislature”]). Under Section
20 9002(b), proponents may submit—up to five days after the close of public comment—any
21 amendments that are reasonably germane to the theme, purpose, or subject of the original
22 measure, not just amendments responding to issues raised by public commenters.⁸ Plainly, the
23 Legislature meant to encourage amendments without unduly restricting the people’s right of

24
25 ⁸ The Legislature could have, but did not, require that amendments be interdependent,
26 interlocking, or otherwise functionally related to the terms of the original. Whether the single
27 subject rule includes such a requirement has been a recurring subject of debate, but the Supreme
28 Court has squarely rejected the idea. (*Brosnahan v. Brown, supra*, 32 Cal.3d at pp. 248-49.)
Given that the Legislature borrowed directly from the single subject cases, it would be
incongruous to hold that Section 9002(b) only permits amendments that directly respond to public
comments submitted through the Attorney General’s website.

1 initiative by forcing proponents to submit to multiple, potentially duplicative layers of public
2 review before a circulating title and summary has even been issued.⁹

3 Petitioners are also wrong that adopting a broad, flexible construction of Section 9002(b)
4 consistent with, or even broader than, case law under the single subject rule would somehow
5 permit proponents to “gut-and-amend” a previously filed measure with a “complete rewrite.”
6 (Petitioners’ Brief, p. 6.) “Gut and amend” is a legislative tactic that involves submitting a
7 placeholder bill, often one that proposes no substantive change in the law, and rewriting it at the
8 end of the session so as to prevent legislators and the public from carefully considering it before it
9 is put to a vote. There is no risk of anything like that here because amendments are submitted
10 before the circulating title and summary has been issued, public review of the measure will carry
11 on for months leading up to the election, and Section 9002(b) separately and expressly prohibits
12 amendments where the original measure does not “effect a substantive change in law.”
13 Proponents do not suggest that the measure as initially filed would have failed to effect a
14 substantive change in law, nor could they.

15 Finally, Petitioners ignore repeated instructions by the Supreme Court that, in order to
16 protect the people’s right of initiative, “unduly literal or inflexible” readings of election law
17 requirements governing the ballot measure process are to be avoided. (*Costa v. Superior Court*
18 (2006) 37 Cal.4th 986, 1013.) The Supreme Court has also “narrowly circumscribed” the power
19 of state and local officials to “impede or delay the initiative process.” (*Schmitz v. Younger* (1978)
20 21 Cal.3d 90, 92.) In contravention of these well-settled principles, Petitioners’ restrictive
21 reading would require the Attorney General to reject amendments whenever, in her judgment,
22 they fail to correct a flaw identified in public comments, or go beyond minor modifications to the
23 existing terms. SB 1253 does not give the Attorney General such broad authority to intervene in
24 the ballot measure qualification process.

25 _____
26 ⁹ To the contrary, the Legislature deliberately kept the initiative process moving quickly
27 by giving the Legislative Analyst Office and the Department of Finance only 50 days after initial
28 submission of the measure to complete their fiscal analysis, regardless of whether or not the
proponents submit amendments at or after the close of the public comment period. (Elec. Code,
§ 9002, subd. (b)(4).)

1 Petitioners argue they simply want Real Parties to “stand in line and comply with
2 requirements of the Elections Code like every one else proposing ballot measures.” (Petitioners’
3 Brief, p. 15.) In fact, the practical reality in this case is that Real Parties could be severely
4 hampered in their ability to collect enough signatures in time for the November ballot if the
5 amendments were deemed a “new” filing, and Real Parties were required to start over. Such an
6 outcome would violate the Supreme Court’s repeated admonitions that statutes and constitutional
7 provisions must be construed in such a way as to promote and protect the people’s right of
8 initiative.

9 **C. The amendments are reasonably germane to the theme, purpose, or**
10 **subject of the measure as originally proposed.**

11 As discussed below, it is readily apparent that the amendments to 15-0121 are reasonably
12 germane to the theme, subject, or purpose of the measure as originally proposed. As amended,
13 the measure continues to focus on the theme, purpose, and subject of promoting rehabilitation of
14 criminal offenders, with a special emphasis on juvenile offenders, and enhancing public safety.

15 As originally proposed, 15-0121 contained various provisions aimed at reforming
16 “California’s juvenile and criminal justice systems” with a particular focus on rehabilitating
17 juvenile and young offenders (those under the age of 23 at the time of the offense), many of
18 whom are prosecuted and sentenced as adults under existing law. (See 15-0121, §§ 2, 3.)
19 Whereas existing law requires some juveniles to be prosecuted as adults, and authorizes district
20 attorneys to prosecute some juveniles as adults without first seeking a determination that the
21 accused is unfit for prosecution as a juvenile, Section 4 of the measure eliminated both mandatory
22 and so-called “direct filing” of charges against juveniles in adult court. (*Id.*, § 4 [amending Welf.
23 & Inst. Code, §§ 602, 707, 731]; see also *id.*, §§ 5-6 [amending Pen. Code, §§ 1170.17, 1170.19;
24 Welf. & Inst. Code, §§ 707.01, 707.1, 707.2, and 1732.6].) Section 8 of the measure expanded
25 parole consideration for youthful offenders (those 23 and under) who were convicted and
26 sentenced under the Three Strikes Law. (*Id.*, § 8 [amending Pen. Code, § 3051, subs. (a)(2)(B),
27 (h)].) Section 7 removed statutory restrictions on court orders sealing or requiring the destruction
28

1 of juvenile court records of offenders convicted of various crimes deemed serious or violent. (*Id.*,
2 § 7 [amending Welf. & Inst. Code, § 781, subs. (a)(1)(D), (d), (f).])

3 The amendments to 15-0121 reasonably relate to the theme, purpose, or subject of the
4 measure as originally proposed. Amended Sections 1-3 provide, like the original, that the
5 amended measure will reform California's juvenile and criminal justice systems to "[s]top the
6 revolving door of crime by emphasizing rehabilitation, especially for juveniles," "[p]rotect and
7 enhance public safety," and "[s]ave money by reducing wasteful spending on prisons." (15-
8 0121A1, § 2; see also *id.*, § 3 [stating purpose to "enhance public safety" and "improve
9 rehabilitation"].) In keeping with the overall theme of promoting rehabilitation and enhancing
10 public safety, the amendments add that the measure will "[p]revent federal courts from
11 indiscriminately releasing prisoners." (*Id.*, § 2.)

12 Whereas Section 8 of the original measure authorized earlier parole opportunities for
13 specified offenders, the amendments would expand the class of persons eligible for such relief.
14 Specifically, it provides that "[a]ny person convicted of a non-violent felony offense and
15 sentenced to state prison shall be eligible for parole consideration after completing the full term
16 for his or her "primary offense," meaning "the longest term of imprisonment imposed by the
17 court for any offense, excluding the imposition of an enhancement, consecutive sentence, or
18 alternative sentence," including but not limited to alternative sentences or enhancements imposed
19 under the Three Strikes Law. (*Id.*, § 3 [proposing new Cal. Const., art. I, § 32].) These
20 amendments are reasonably germane to the theme, purpose, or subject of the measure as
21 originally proposed, i.e., promoting rehabilitation and enhancing public safety.

22 The changes to Section 4 and the deletion of Sections 5-6 are also "reasonably germane."
23 The amended measure, like the original, eliminates mandatory and so-called "direct filing"
24 against juveniles in criminal court and requires that all youths have a hearing in juvenile court
25 before they can be transferred to adult court. (15-0121A1, § 4.)

26 Finally, the amended measure deletes Section 7 pertaining to juvenile court records. This
27 deletion is also "reasonably germane"; the amended version continues to focus on the overriding
28

1 theme, purpose, or subject of promoting rehabilitation and enhancing public safety, but simply
2 does so without the previously considered changes to handling of juvenile court records.

3 Petitioners insist there is no plausible relation between the original and amended versions,
4 but their arguments fail. Contrary to their suggestion, the fact that the amendments propose a
5 new constitutional provision, rather than statutory changes only, does not render the amendments
6 any less “germane.” (See Petitioners’ Brief, p. 8.) The voters are empowered to use the initiative
7 process to achieve their aims via constitutional and/or statutory changes. Petitioners cite no case
8 authority, and there is none, for the proposition that any constitutional change necessarily
9 comprises a separate and distinct “subject” from a proposed statutory amendment simply by
10 virtue of the fact that the provisions approved by the voters will be located in the Constitution
11 instead of statutory law. It is routine for ballot measures addressing a particular subject to make
12 changes to the relevant portions of both statutes and the Constitution.

13 That the amendments may conflict with, override, or otherwise affect the operation of
14 numerous criminal sentencing laws also sheds no light on the “germaneness” inquiry.
15 (Petitioners’ Brief, pp. 8-14.) A ballot measure, after all, is a change to existing law. Petitioners
16 spend several pages of their brief listing laws they claim will be vitiated by the amendments, but
17 the question here is confined to whether the amendments are “reasonably germane” to the original
18 theme, purpose, or subject of the measure; so long as they satisfy that requirement—and they
19 do—the amendments must be accepted, regardless of how many laws they might affect. (See,
20 e.g., *Brosnahan v. Brown*, *supra*, 32 Cal.3d at pp. 246-247 [citing with approval *Evans v.*
21 *Superior Court* (1932) 215 Cal. 58, which upheld a measure encompassing “one thousand and
22 seven hundred sections covering a wide spectrum of topics within the general ‘area’ of ‘probate
23 law,’ which sections were contained in part in several codes and statutes”]; *id.* at p. 249 [further
24 noting that in *Evans, supra*, the Supreme Court upheld “extensive probate legislation concerning
25 such diverse and unrelated topics as the rights of intestate succession, the powers of guardians
26 over the persons and estates of incompetent persons, and the sale and leasing of estate property,
27 on the express ground that all of these provisions ‘have one general object’”].)

28

1 Petitioners are also incorrect that the “theme, purpose and subject of the initially-filed
2 measure was *strictly limited* to the prosecution of juveniles,” whereas the amendments propose a
3 “sweeping overhaul of the State’s criminal sentencing laws applicable to adults.” (Petitioners’
4 Brief, p. 8, italics added.) The original measure proposed changes to the “California’s juvenile
5 *and* adult criminal justice systems” (15-0121, §§ 2, 3, italics added), as do the amendments.
6 Because many juveniles are prosecuted and sentenced as adults, and some are sent to state prison
7 when they turn 18, the juvenile and adult justice systems are interconnected, not
8 compartmentalized. In an attempt to promote rehabilitation, enhance public safety, and reduce
9 cost system-wide, the original version placed a special, but not exclusive, focus on youthful
10 offenders, including young adults. The amended measure seeks to promote these same aims, only
11 on a larger scale, by extending eligibility for early parole to non-violent offenders as a class, and
12 authorizing CDCR to award credits for good behavior and rehabilitation, provided it certifies that
13 its regulations in this area will “enhance public safety.” (15-021A1, § 3.) At the same time, the
14 amended version continues to emphasize rehabilitation of youthful offenders by carrying over and
15 modifying provisions from the original which would limit the circumstances in which juveniles
16 can be charged and sentenced as adults. (*Id.*, § 4.)

17 In *Manduley v. Superior Court*, *supra*, the Supreme Court rejected a single subject
18 challenge to a multi-faceted criminal justice measure—like this one—that encompassed changes
19 to the juvenile justice system specifically, as well as the general criminal laws. The Court’s
20 reasoning in that case is instructive. At issue was Proposition 21, the “Gang Violence and
21 Juvenile Crime Prevention Act of 1998,” which greatly increased the authority of prosecutors to
22 charge juveniles as adults, and made a number of changes to laws specifically aimed at criminal
23 gang activity. (27 Cal.4th at pp. 574-575.) The measure also changed the Three Strikes Law by
24 expanding the list of crimes that qualify as “strikes” for sentencing purposes, including such
25 crimes as robbery; kidnapping; first degree burglary; exploding a destructive device causing
26 bodily injury; throwing acid or a flammable substance; and assaulting a peace officer or
27 firefighter. (*Id.* at pp. 575, 577.)

1 While acknowledging that “some of these crimes, at first blush, might not bear an obvious
2 relationship to juvenile or gang offenders,” the Supreme Court reasoned that “[e]ven if some of
3 the crimes . . . are more likely to be committed by an adult who is not a gang member, the
4 offenses nonetheless constitute crimes that commonly are committed by members of street gangs
5 and/or juvenile offenders and thus bear a reasonable and commonsense relationship to the
6 purpose of [reducing juvenile and gang-related crime].” (*Id.* at p. 578.) “The circumstance that
7 the Three Strikes provisions affect adults in addition to juveniles and gang members does not
8 mean that these provisions are not reasonably germane to the purpose of the initiative.” (*Ibid.*)

9 Just as the Three Strikes amendments in Proposition 21 bore a reasonable relationship to a
10 common theme, the amendments here bear “both a topical and a functional relationship” (*ibid.*) to
11 the theme, purpose, or subject of the measure as originally proposed. (§ 9002, subd. (b).)
12 Expanding parole eligibility for non-violent offenders generally, and authorizing CDCR to award
13 credits for good behavior and rehabilitative achievements (see 15-0121A1, § 3), will enhance
14 public safety and promote rehabilitation to the benefit of both adults *and* juveniles who may be
15 prosecuted as adults.

16 **D. Petitioners’ other arguments regarding the public review process are**
17 **either baseless or derivative of their incorrect claim that the amendments**
18 **should be deemed a “new” submission.**

19 In addition to arguing that accepting the amendments would deny the public their “statutory
20 right of review” (Petitioners’ Brief, p. 15), Petitioners contend the Court should intervene because
21 the Legislative Analyst’s Office only had “16 days to analyze an extremely complex initiative,”
22 and the Attorney General had “less than half the statutory time allowed to prepare a title and
23 summary.” (*Id.*, p. 1.) These arguments presume incorrectly that the amended version of the
24 measure is, and should be deemed, “new.” Whenever a measure is amended near or after the
25 close of the public comment period, the time for preparation of the fiscal analysis and circulating
26 title and summary is truncated; that is driven by the statutory deadlines in SB 1253, which were
27 deliberately designed to keep the process moving quickly. Moreover, Petitioners do not even try
28 to argue that the fiscal analysis prepared by the Legislative Analyst’s Office is somehow
deficient, or would be more thorough and accurate if the Legislative Analyst’s had 50 days,

1 instead of only 15, to prepare its analysis. The Legislative Analyst's Office prepared a
2 comprehensive analysis and submitted it to the Attorney General on the 51st day, and the analysis
3 complies with the statutory requirements. The Petitioners have seen it and do not suggest
4 otherwise. The Attorney General has also completed preparation of the circulating title and
5 summary and is ready to issue it any time. There are no grounds to hold that anyone has been
6 harmed.

7 Petitioners' further suggestion (in a footnote) that acceptance of the amendments would
8 permit Real Parties to somehow "cut in line" ahead of other proponents (Petitioners' Brief, p. 1
9 fn. 1) is also unsupported by any evidence or argument and should be rejected out of hand. The
10 LAO and the Attorney General process each and every ballot measure within the time prescribed
11 by law. Petitioners provide no basis to believe that the proponents of any other measure have
12 been harmed in any way by acceptance of the amendments to 15-0121.

13 CONCLUSION

14 For the reasons discussed above, there is no basis for holding that the disputed amendments
15 were submitted in violation of Section 9002(b), or that any "error or omission" or any "neglect of
16 duty" by the Attorney General has occurred or is about to occur. (Elec. Code, § 13314.) The
17 requested writ should be denied.

18
19 Dated: February 22, 2016.

Respectfully Submitted,

20 KAMALA D. HARRIS
21 Attorney General of California
22 CONSTANCE L. LELOUIS
23 Supervising Deputy Attorney General



24
25 PAUL STEIN
26 Deputy Attorney General
27 *Attorneys for Respondent Attorney General*
28 *Kamala D. Harris*

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DECLARATION OF SERVICE BY E-MAIL and U.S. Mail

Case Name: **California District Attorneys Association, et al. v. Kamala Harris, et al.**
No.: **34-2016-80002293**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On February 22, 2016, I served the attached

ATTORNEY GENERAL'S OPPOSITION TO VERIFIED PETITION FOR WRIT OF MANDATE


by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, addressed as follows:

Thomas W Hiltachk
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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 22, 2016, at San Francisco, California.

N. Newlin
Declarant



Signature

SA2016100566
20823632.doc

1 Thomas W. Hiltachk (SBN 131215)
1 tomh@bmhlaw.com
2 Brian T. Hildreth (SBN 214131)
2 bhildreth@bmhlaw.com
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6 Attorneys for Petitioners
6 CALIFORNIA DISTRICT ATTORNEYS
7 ASSOCIATION, and ANNE MARIE SCHUBERT

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SACRAMENTO**

10 CALIFORNIA DISTRICT ATTORNEYS
11 ASSOCIATION, and ANNE MARIE
12 SCHUBERT, an individual and in her
13 personal capacity,

13 Petitioners,

14 v.

15 ATTORNEY GENERAL OF THE STATE
16 OF CALIFORNIA, KAMALA HARRIS, in
17 her official capacity only; and DOES I-X,
18 inclusive,

17 Respondents.

19 MARGARET R. PRINZING and HARRY
20 BEREZIN,

20 Real Parties In Interest.

CASE NO. 34-2016-80002293

**MEMORANDUM OF POINTS AND
AUTHORITIES IN REPLY TO OPPOSITION**

IMMEDIATE ACTION REQUIRED:
ELECTION LAW MATTER ENTITLED TO
CALENDAR PREFERENCE PURSUANT TO
C.C.P. § 35; ELECTIONS CODE § 13314

DATE: 2/24/2016
TIME: 3:30 PM
DEPT: 24

Petition Filed: 2/11/2016

22 **INTRODUCTION**

23 The oppositions by filed Respondent and Real Parties now argue that the recent changes to
24 Elections Code section 9002 empower the Attorney General with unilateral discretion to determine
25 if a proposed initiative measure conforms to or violates the constitutional “single subject rule.” As
26 indicated more fully below, the Legislature specifically did not adopt the “single subject rule” in
27 Section 9002 and it did not overturn the exclusive role of the courts to determine such complex
28 constitutional questions. Instead, through section 9002, the Legislature asks the Attorney General

1 to simply review the substantive changes in law proposed by an originally filed initiative measure
2 and to confirm that the proposed amendments are reasonably germane to the theme, purpose, or
3 subject of measure “as originally proposed.”

4 Petitioners are not asking this Court to rule that the proposed amended initiative consists of
5 a “single subject.” Rather, because it is now clear that Respondent did not understand her
6 obligation and duty under Section 9002, this Court must step in and correct the error which
7 occurred in this case. Real Parties have substantially mischaracterized the purpose of their
8 December 22 measure. What first was proposed as a juvenile justice measure is now retroactively
9 described as a general criminal justice measure. Real Parties need the Court to accept this factually
10 false argument in order to make easier the leap to treat their sweeping new January 26 measure as
11 an amendment, instead of a new measure.

12 Finally, while it takes Real Parties almost 15 pages to confess their true motivation for the
13 gut-and-amend of the December 22 measure, we have now learned that they were fatally late in
14 introducing the new measure they (and the Governor) seek to qualify for the November ballot. Real
15 Parties effectively admit this delay and then sought-out the assistance of the Attorney General to
16 overcome this delay by accepting the January 26 filing as an “amendment” in accordance with
17 section 9002. (Real Parties’ Brief, p. 15, Ins. 1-17; Declaration of Kimball.) Of course the effect of
18 this error was the disregard of the full and fair statutory review and analysis required for the new
19 and completely different measure submitted on January 26. Petitioners assert that this Court should
20 stand to protect Petitioners herein and also the public from the substantial prejudice resulting from
21 Real Parties’ unreasonable delay.

22 LEGAL ARGUMENT

23 **I. RESPONDENT AND REAL PARTIES IN INTEREST ADVANCE AN INCORRECT** 24 **ANALYSIS IN THEIR APPLICATION OF SECTION 9002.**

25 Respondent and Real Parties argue for the effective nullification of section 9002(b). They
26 advance a legal theory that would gut the public policy behind the statute and render it meaningless.
27 They argue that proponents of a statewide measure, at their whim and *after* the close of the public
28

1 examination period, can make “*virtually any change* ranging from minor modifications to new and
2 potentially sweeping substantive additions, changes, or deletions.” (Respondent’s Brief, p. 6, Ins.
3 11-12.) They posit that the breadth of the single-subject-rule test applies because of the similarity of
4 the language to section 9002(b). This is a fictional and unsupported interpretation of the statute that
5 they now ask the Court to validate.

6 In fact no such “sweeping substantive additions” were contemplated by the authors of the
7 bill that enacted section 9002. It is telling that the opposition briefs do not cite to any legislative
8 history of section 9002(b) that ostensibly allows initiative proponents to avoid meaningful public
9 review of their initiative measure by gutting and amending a measure after the close of the public
10 examination period. Indeed, it is patently evident that the Legislature did not intend to apply the
11 breadth of the single subject test to section 9002(b) (as the opposition briefs strenuously assert). In
12 the hundreds of pages of legislative history of section 9002 there is not a single favorable mention
13 of the single subject rule, or calling for its application to section 9002.

14 Indeed, Respondent helpfully concedes that the actual intent of the Legislature in enacting
15 section 9002 was “to improve the quality of ballot measures by making it easier for proponents to
16 get feedback from the public....” (Respondent’s Brief, p. 2, Ins. 15-16.). Petitioners agree and ask
17 this to Court preserve this obvious statutory intent. In protecting the actual intent of section
18 9002(b), the Court also will be declining to sanction Respondents and Real Parties’ use of the
19 publicly-despised gut and amend tactic to substantively rewrite their measure after the closing bell.

20 **A. The Attorney General Does Not Maintain Statutory Deference or Discretion To**
21 **Unilaterally Determine Whether Real Parties’ January 26, 2016 Submission**
22 **Violated Or Conformed To The Single Subject Rule.**

23 Importantly, Respondent also does not maintain “deference” or “discretion” to unilaterally
24 decide whether Real Parties’ January 26, 2016 submission violated or conformed to the “single
25 subject rule” found in Article II, section 8(d) of the California Constitution.

26 Respondent and Real Parties attempt to falsely equate judicial opinions regarding the single-
27 subject rule with the interpretation of section 9002(b). Then sharply diverging from the single-
28 subject cases (where the AG has no authority or discretion to opine), they argue that under *title-*

1 *and-summary* cases¹ the Attorney General is vested with “deference” and “discretion” to apply
2 section 9002(b) to determine whether the January 26, 2016 filing was new a measure, or whether it
3 was an amendment to the December 22, 2015 filing. Their curious analysis strains credulity by
4 attempting to weave together disparate components from single-subject-rule cases and title-and-
5 summary cases -- all to make their case that the Attorney General has title-and-summary-type
6 discretion to interpret initiative measure amendments using single-subject-rule definitions. It’s
7 twisted and flawed legal logic, and it’s not persuasive.

8 In fact, the Attorney General has never maintained discretion to decide single-subject issues.
9 (*Schmitz v. Younger* (1978) 21 Cal.3d 90, 93 [A single-subject requirement analysis “involves
10 difficult legal questions that only a court may resolve”].) Courts simply have never granted that
11 “deference” to attorneys general. The rule in *Schmitz* - that Respondent must seek prior judicial
12 authorization before refusing her ministerial duty on the basis that a submitted measure violates the
13 single-subject-rule - has served California well for 35 years. The *Schmitz* rule also comports with
14 the statutory scheme set forth in the Elections Code § 9000, *et. seq.* It protects the right to petition,
15 and it protects the voters’ right to a public review period and an opportunity to submit comments on
16 a proposed measure. The rule in *Schmitz* has stood the test of time because it is a beneficial rule
17 that is equally applicable to section 9002(b). As conceded by Real Parties and Respondent, the
18 Legislature is presumed to have known this when it enacted section 9002.

19 Instead, it is clear that the Legislature had something else in mind in enacting section 9002.
20 As this Court is well aware, statutory provisions are to be examined in view of related provisions
21 which bear on the subject, not in isolation. (*Fields v. Eu* (1976) 18 Cal.3d 322, 328.) “The goal, of
22 course, is to harmonize all related provisions if it is reasonably possible to do so without distorting
23 their apparent meaning, and in so doing to give effect to the scheme as a whole.” (*Id.*) “Strained
24 interpretation, or construction leading to unreasonable or impractical results, is to be avoided.” (*Id.*)
25 Effective invalidation of section 9002(b) by the Court under an application of the single-subject test

26 ¹ Sections 9000 *et seq.*, provide that before the circulation of an initiative or referendum petition for
27 signatures, the text of the proposed measure shall be submitted to the Attorney General with a
28 written request that a circulating title and summary of the chief purpose and points of the proposed
measure be prepared. The title and summary may not exceed a total of 100 words. (See also Cal.
Const., art II, § 10(d).)

1 would be just such an unreasonable and impractical result. Moreover, this Court is empowered to
2 correct the mistake by the Attorney General in the present matter. (*Kasler v. Lockyer* (2000) 23
3 Cal. 4th 472 [“For the Legislature to set up the courts as a check upon the exercise of power it is
4 delegating to the Attorney General is, in itself, perfectly in keeping with the separation of powers
5 doctrine, the primary purpose of which is to prevent the combination in the hands of a single person
6 or group of the basic or fundamental powers of government”].)

7 **II. REAL PARTIES MISCHARACTERIZE THE NARROW SCOPE OF THEIR**
8 **INITIAL MEASURE TO CONVINCe THE COURT IT WAS ACTUALLY A**
9 **BROAD PUBLIC SAFETY MEASURE.**

10 Petitioners have provided an extensive analysis comparing the two measures submitted by
11 Real Parties In Interest. (See Points and Authorities in Support of Petition for Writ of Mandate,
12 Section II.B. therein.) However, to believe Real Parties’ opposition argument is to falsely believe
13 that the two measures were substantially similar. They are not.

14 The December 22 measure repeatedly references “juveniles,” “young people,” “youthful
15 offenders,” and “minors.” The December 22 measure stated as a principal purpose a “focus[] on
16 rehabilitating youth and young adult offenders.” Indeed, the reference to “young *adult* offenders”
17 meant offenders under the age of 23-years-old who by law (Penal Code section 3051) are subject to
18 the California Youthful Offender Parole Board. The December 22 measure speaks for itself.

19 Now, however, Real Parties have attempted to retroactively recast the December 22 measure
20 as a broad juvenile AND adult criminal reform measure – one that all along stood for the purpose of
21 promoting “rehabilitation of juvenile *and adult* offenders.” (Real Parties’ Brief, p. 9, lns. 11-12.)
22 In sum, Real Parties have misleadingly altered their description of the December 22 measure:

23 **From this:** “...rehabilitating youth and young adult offenders.”

24 **To this:** “...rehabilitation of juvenile and ~~young~~ adult offenders.”

25 Real Parties’ attempt to recast their December 22 measure offends common sense and is
26 facially false after even a casual reading of the December 22 measure.

27
28 Nonetheless, if Real Parties can persuade the Court that their December 22 measure always

1 included all adult offenders, they believe they can convince the Court that the leap to the January 26
2 measure is a short one. However, the December 22 measure is not an adult crime measure and
3 never was (and removing a single word from the description does not make it so). And because
4 Real Parties argument fails on that ground, so too does their argument that the January 26 measure
5 was reasonably germane to the purpose of the original December 22 measure.

6 Finally, besides operating as a factual slight-of-hand, Real Parties' removal of a single word
7 in attempting to relate the two measures ("...rehabilitation of juvenile and ~~young~~ adult offenders")
8 is indicative of the actual sweeping and patently unrelated differences between the two measures.
9 Where the December 22 measure was focused solely on an extremely narrow demographic of
10 offender ("youthful offenders"), the January 26 measure would now apply the provisions of the
11 measure to virtually every criminal offender in California (juveniles and adults).

12 **III. REAL PARTIES' UNREASONABLE DELAY IN SUBMITTING THEIR NEW**
13 **MEASURE DISGUISED AS AN AMENDMENT HAS RESULTED IN GRIEVOUS**
14 **PREJUDICE AGAINST THE PUBLIC WHO WERE DEPRIVED OF ANY PUBLIC**
EXAMINATION AND COMMENT PERIOD FOR THE NEW MEASURE.

15 Real Parties conclude their argument with a brief discussion that is actually an admission of
16 their true motivation for the gut-and-amend of their December 22 measure. They changed their
17 minds at the last minute and were fatally late in introducing their new measure that they (and the
18 Governor) now want to present to voters.

19 Real Parties effectively admit this delay and now argue for the Court's permission to
20 sanction a re-write of their measure after the close of the public inspection period. (Real Parties'
21 Brief, p. 15, lns. 1-17 ["Furthermore, if the Court were to order the Attorney General to re-start the
22 clock on or after the hearing on this matter, there would be insufficient time to qualify the measure
23 for 2016"].) Petitioners assert that this Court should stand to protect the public from substantial
24 prejudice resulting from Real Parties' unreasonable delay.

25 Real Parties delayed more than 30 days and waited until after the close of the public
26 examination period to re-write their initiative. There is no reasonable ground for this delay.
27 Additionally, Real Parties' delay is extremely prejudicial as it has deprived voters and the public
28 with any meaningful opportunity to provide comment on the new measure. Because of the

1 significant prejudice resulting from Real Parties' unreasonable delay, the Court should grant the
2 instant Petition and refuse to set a precedent for all future ballot measures. Real Parties should be
3 unambiguously directed to avail themselves to the statutory process in place for all new ballot
4 measures.

5 **CONCLUSION**

6 The January 26, 2016 filing must be treated as a new filing and this Court should act
7 immediately to prohibit Respondent Attorney General from allowing Real Parties' new measure
8 from unlawfully prejudicing the public by denying them their statutory public review and comment
9 period afforded for all new measures. By granting the instant Petition for Writ of Mandate, Real
10 Parties will be directed to comply with the statutory procedures with which proponents of all new
11 measures must comply (including measures written and supported by the Governor, who must act
12 as any other proponent in these circumstances).

13 Petitioners respectfully request this Court grant the Verified Petition for Writ of Mandate.

14 Dated: February 23, 2016.

BELL, McANDREWS & HILTACHK, LLP

15
16
17 BY: 

THOMAS W. HILTACHK
BRIAN T. HILDRETH

18
19 Attorneys for Petitioners
20 CALIFORNIA DISTRICT ATTORNEYS
21 ASSOCIATION, and ANNE MARIE SCHUBERT
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PROOF OF SERVICE

1. I am over the age of 18 and not a party to this cause. I am employed in the county where the mailing occurred. The following facts are within my first-hand and personal knowledge and if called as a witness, I could and would testify thereto.

2. My business address is 455 Capitol Mall, Suite 600, Sacramento, CA 95814.

On February 23, 2016, I served the foregoing document entitled

MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY TO OPPOSITION

on each person named below by enclosing a true copy in an envelope addressed as shown in Item 5 and by:

- a. _____ depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
- b. _____ placing the sealed envelope with postage prepaid for collection and mailing on the date and at the place shown in Item 4 following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for mailing. In the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in the place shown in Item 4.
- c. _____ transmitting via facsimile to the number(s) during regular business hours.
- d. _____ personally serving.
- e. X transmitting by email to the offices of the addressee(s) following ordinary business practices during ordinary business hours.
- f. _____ causing to be deposited in a sealed envelope with FedEx Overnight Mail.
- g. _____ causing to be hand-delivered via a professional courier service.

5. Name and address of each person served:

Counsel:

Party Represented:

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Supervising Deputy Attorney General
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Tamar Pachter
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CALIFORNIA DEPARTMENT OF JUSTICE
1300 I Street Suite 1330
Sacramento , California 95814

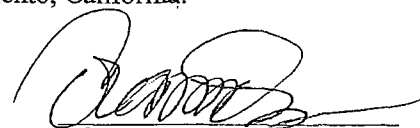
Respondent, ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA, KAMALA
HARRIS

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Real Parties ,
MARGARET R. PRINZING and HARRY
BEREZIN

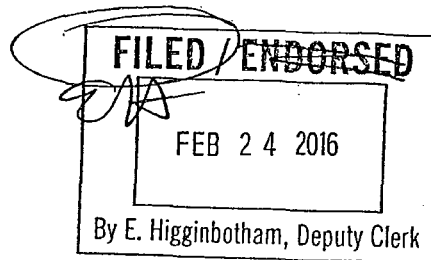
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 23, 2016, at Sacramento, California.



CORIANNE DURKEE

1 KAMALA D. HARRIS
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Kamala D. Harris



8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SACRAMENTO

12 CALIFORNIA DISTRICT ATTORNEYS
ASSOCIATION, and ANNE MARIE
13 SCHUBERT, an individual and in her
personal capacity,

14 Petitioners,

15 v.

17 ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA, KAMALA HARRIS, in
18 her official capacity only; and DOES I-X,
inclusive,

19 Respondents.

21 MARGARET R. PRINZING and HARRY
BEREZIN,

22 Real Parties In Interest.

Case No. 34-2016-80002293

23 **PROPOSED ORDER AND JUDGMENT**
AFTER HEARING ON PETITION FOR
WRIT OF MANDATE

Election Matter: Elections Code § 13314

24 Date: Feb. 24, 2016
25 Time: 3:30 p.m.
26 Dept: 24
27 Judge: Hon. Shelleyanne W.L. Chang

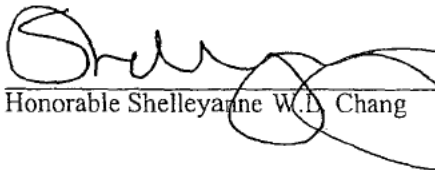

28 The petition for writ of mandate by Petitioners California District Attorneys Association
(CDAAs) and Anne Marie Schubert, in her personal capacity (Schubert), came on for hearing in
Department 24 of this Court on February 24, 2016. Deputy Attorney General Paul Stein appeared
on behalf of Respondent Attorney General Kamala D. Harris, and Real Parties' counsel James

1 Harrison appeared on behalf of Real Parties Harry Berezin and Margaret Prinzing. Petitioners'
2 Counsel Tom Hiltachk appeared on behalf of Petitioners CDAA and Schubert..

3 Having read and considered all the memoranda of points and authorities, declarations, and
4 evidence submitted, and having heard argument of counsel, IT IS HEREBY ORDERED AND
5 ADJUDGED THAT:

- 6 1. The petition for writ of mandate ^(m) ~~is granted / denied / granted in part and denied in~~
7 ~~part.~~ *in favor of petitioners.* ^(b)
- 8 2. Judgment is entered ~~against petitioner(s) / respondent and real parties in interest and~~
9 ~~in favor of petitioner(s) / respondent and real parties in interest.~~
- 10 3. A peremptory writ of mandate shall issue / ^(m) ~~not issue~~ ordering Respondent Attorney
11 General Harris, her officers, agents, and all persons acting by, through or in concert
12 with her to forthwith reject Real Parties' January 25, 2016 amendment to Initiative
13 No. 15-0121.
- 14 4. A peremptory writ of mandate shall issue / ^(s) ~~not issue~~ prohibiting Respondent Attorney
15 General Harris, her officers, agents, and all persons acting by, through, or in concert
16 with her from issuing the circulation title and summary for Initiative No. 15-0121 as
17 amended by Real Parties' purported January 25, 2016 amendment on or before
18 February 26, 2016 to allow for a public review period, and for a full period of time
19 for the Legislative Analyst's Office to conduct its analysis.
- 20 5. ~~Each party shall bear his or her own costs and attorneys' fees. / Attorneys fees and~~
21 ~~costs are hereby awarded to Petitioners / Respondent and Real Parties.~~ ^(m)

22
23 Dated: 2/24/16

24 
Honorable Shelleyanne W.L. Chang 

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Kamala D. Harris*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

**CALIFORNIA DISTRICT ATTORNEYS
ASSOCIATION, and ANNE MARIE
SCHUBERT, an individual and in her
personal capacity,**

Petitioners,

v.

**ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA, KAMALA HARRIS, in
her official capacity only; and DOES I-X,
inclusive,**

Respondents.

**MARGARET R. PRINZING and HARRY
BEREZIN,**

Real Parties In Interest.

Case No. 34-2016-80002293

~~PROPOSED~~ PEREMPTORY WRIT OF
MANDATE

Election Matter: Elections Code § 13314

Date: Feb. 24, 2016
Time: 3:30 p.m.
Dept: 24
Judge: Hon. Shelleyanne W.L. Chang

TO RESPONDENT ATTORNEY GENERAL KAMALA D. HARRIS, HER AGENTS,
OFFICERS, AND ALL PERSONS ACTING BY, THROUGH, OR IN CONCERT WITH HER:

Judgment having been entered in this action ordering that a peremptory writ of mandate be
issued by this Court, you are hereby, upon receipt of this writ:

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1. Commanded to reject Real Parties' January 25, 2016 amendment to Measure No. 15-0121.

2. Prohibited from issuing the circulation title and summary for Initiative No. 15-0121 as amended by Real Parties' purported January 25, 2016 amendment on or before February 26, 2016.

YOU ARE FURTHER COMMANDED to file a return within 60 days of your receipt of this writ indicating you have complied with its terms.

Dated: 2-24-16




Honorable Shelleyanne W.L. Chang

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E. HIGGINBOTHAM *for Timothy Ainsworth*
Clerk of the Court.

DECLARATION OF JAMES C. HARRISON

I, James C. Harrison, declare under penalty of perjury as follows:

1. I am one of the attorneys for petitioners Governor Edmund G. Brown Jr., Margaret R. Prinzing, and Harry Berezin. I submit this declaration to explain the circumstances making the full reporter's transcript unavailable for inclusion in the record at this time. (Cal. Rule of Court 8.486(b)(3)(A).)

2. On February 11, 2016 petitioners California District Attorneys Association and Anne Marie Schubert filed a petition for writ of mandate alleging that proponents' amendments were not reasonably germane to the theme, purpose, or subject of their initiative as originally proposed, and asking respondent Superior Court to order the Attorney General to reject proponents' January 25, 2016 submission as an improper amendment to Measure No. 15-0121 and to refrain from issuing a title and summary that includes the amendments. The title and summary otherwise would be due on February 26, 2016.

3. At 3:30 p.m. on Wednesday, February 24, 2016, Sacramento Superior Court Judge Shelleyanne Chang heard oral argument on the petition, which had been fully briefed by all parties. I appeared on behalf of proponents and real parties in interest Prinzing and Berezin, and argued that the amendments met the statutory criteria of having been filed within 35 days of the original submission (Elec. Code, § 9002(b)(4)), and being "reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed" (*id.*, § 9002(b)). Deputy Attorney General Paul Stein, along with Supervising Deputy Attorney General Constance LeLouis, appeared on behalf of respondent Attorney

General Kamala Harris to argue that she had properly exercised the discretion given her under the statute in finding that the amendment was “reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed,” and that the statute plainly allowed amendments to be submitted up to five days after the close of the public comment period. Thomas Hiltachk and Brian Hildreth appeared on behalf of petitioners California District Attorneys Association and Anne Marie Schubert to argue that the amendments were not reasonably germane.

4. After hearing oral argument for approximately one hour, and taking a recess to consider the matter, at approximately 5:00 p.m. Judge Chang ruled from the bench, issuing a peremptory writ of mandate ordering the Attorney General to refrain from issuing a title and summary for the Public Safety and Rehabilitation Act of 2016. Following that bench ruling, the parties met and conferred and agreed upon the form of an order, which Judge Chang signed that same evening.

5. After the hearing concluded, I ordered an expedited transcript of the hearing from Court Reporter Lisa Busath. Ms. Busath was able to provide me that same evening the four pages of the transcript that constitute the Court’s oral ruling. A true and correct copy of that portion of the transcript is attached to this declaration. Ms. Busath has told me that she hopes to be able to provide the completed transcript of the full hearing sometime over this coming weekend. I have reiterated to her the need to provide the full transcript as soon as possible.

I declare under penalty of perjury that the foregoing is true and correct of my own personal knowledge and, if called upon to do so, I

could and would so testify. Executed this 24th day of February, 2016, at
San Leandro, California.



A handwritten signature in black ink, appearing to read "James C. Harrison", is written over a solid horizontal line. The signature is stylized and cursive.

(00268805)

1 parties is that this is essentially an idea of the
2 governor that he asked them to carry his water for instead
3 of having his own initiative. And by God, he's free to do
4 that, but he should have just stood in line like everybody
5 else and let the chips fall where they may. And we're
6 just asking that the statute be followed.

7 With that, your Honor, I submit.

8 THE COURT: Ladies and gentlemen, let's take a
9 short break and give the court reporter a break. She's
10 had a long day. I'll come back and I'll render my
11 decision.

16:36:28 12 Let's be back here at 4:55, five minutes to
13 5:00.

14 MR. HARRISON: Thank you, your Honor.

16:59:48 15 (Recess.)

16 THE COURT ATTENDANT: Please come to order.
17 Court's again in session.

18 THE COURT: The court has considered all of the
16:59:58 19 arguments of the parties. At this point the court is
20 going to go ahead and grant the peremptory writ of
21 mandate.

22 The court finds that the Attorney General abused
23 her discretion in accepting the amendment as reasonably
24 germane to the theme, purpose and subject of the original
25 initiative.

26 The theme and purpose of the original initiative
27 was reform of the juvenile justice system. The amendment
28 deals with primarily reform of the adult justice system,

17:00:27

1 including parole eligibility, status and credits of adult
 2 offenders. While some of the provisions may have some
 3 impact on youthful offenders, nevertheless, the court
 4 finds that the amendment deals primarily with the reform
 5 of the adult justice system.

17:00:56

6 I think it's instructive that one of the purposes
 7 of the amendment as articulated was to address federal
 8 court mandates of overcrowding of the adult prison system.
 9 I also find that it is significant that the amendment was
 10 a constitutional amendment which effects numerous statutes
 11 affecting adult offenders.

17:01:29

12 Finally, the court finds that the purpose and
 13 intent of 9002 has been violated. The purpose of the
 14 public comment period is not only, I think, to identify
 15 and correct flaws in a proposed initiative, but also to
 16 give voters an opportunity to comment on an initiative
 17 measure before the petition is circulated for signatures.

17:01:58

18 While it's true that public comment may address
 19 perceived errors in the drafting of or perceived
 20 unintended consequences of the proposed initiative, I do
 21 think it's important to point out the fact that the public
 22 comment period is to provide the public with an
 23 opportunity to comment on any perceived unintended
 24 consequences.

25 Thus, I find that the comment period serves as a
 26 mutual benefit to both the drafters and the public. That
 27 the drafters have submitted declarations indicating that
 28 they don't need additional time or that they don't intend

1 to make any further amendments to their initiative, the
2 court finds is, frankly, irrelevant.

17:02:29

3 Here, under these particular facts, the amendment
4 was submitted after the public comment period, thereby
5 depriving the public of the ability to make a public
6 comment. That the public was able to write to the
7 proponents rather than push a button on a Web site the
8 court finds is not particularly adequate. Even then the
9 proponent could not make a change to the initiative
10 measure in response to the comments.

17:02:57

11 Finally, the court finds instructive the last
12 sentence of Section 9002(b). Clearly, the legislature was
13 concerned about gut and amend. While the original measure
14 did effect a change in substantive law, nevertheless, what
15 the amendment did was the type of mischief that the
16 legislature had in mind, otherwise a measure could change
17 substantive law and then after the public comment period,
18 put in a new amendment changing substantive law without
19 the ability of the public to review it. The court -- the
20 legislature was clearly concerned about spot initiatives.

17:03:27

21 Now, neither side, and I believe the real parties
22 in interest in their papers, argued substantial
23 compliance. It wasn't raised in oral argument, but I
24 believe that given the procedural steps and the time
25 frames articulated by the legislature, including the right
26 to public comment and a specific time frame for the public
27 to comment, the court does not believe the doctrine of
28 substantial compliance applies.

17:03:57

1 Moreover, even if it did, the court finds no
2 substantial compliance. Reaching out to stakeholders is
3 not sufficient. It's not equivalent to an opportunity to
4 comment on a revised measure. Mailing a letter is not
5 equivalent to pushing a button on a Web site. And more
6 importantly, there was no opportunity to change or amend
7 the measure in response to any comments received to the
8 amendment.

9 So for all these reasons, the court will issue a
17:04:30 10 peremptory writ of mandate.

11 Mr. Hiltachk, do you have a proposed order?

12 MR. HILTACHK: We do, your Honor, but I believe
13 the Attorney General's office has a form that they prefer
14 too that we were going to look at. So we will do that
15 right now and provide that to you.

16 THE COURT: Okay. We can do that. Do you want me
17 to stay to sign it?

18 MR. HARRISON: If you wouldn't mind, your Honor,
19 we would appreciate that.

20 THE COURT: Okay. Just let the staff know when
17:04:55 21 you're ready.

22 (Brief interruption.)

23 (Whereupon the proceedings were concluded
24 for the day.)

25 ---o0o---

26

27

28

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On February 25, 2016, I served a true copy of the following document(s):

**Appendix [Vol. II of II]
to Emergency Petition for Writ of Mandate
and Request for Immediate Stay and/or
Other Appropriate Relief;
Memorandum of Points and Authorities**

on the following party(ies) in said action:

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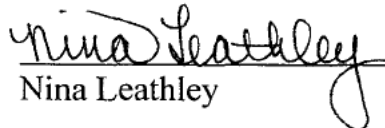
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General of the State of California and
Kamala Harris*

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
- depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.

- placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on February 25, 2016, in San Leandro, California.


Nina Leathley

(00268659-2)