Case No. S232642

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.

On Appeal from the Superior Court of California, County of Sacramento
Case No. 34-2016-80002293-CU-WM-GDS
Hon. Shelleyanne Chang

PRELIMINARY OPPOSITION OF REAL PARTIES IN INTEREST, CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION AND ANNE MARIE SCHUBERT TO EMERGENCY PETITION FOR WRIT OF MANDATE AND REQUEST FOR IMMEDIATE STAY AND/OR OTHER APPROPRIATE RELIEF

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Supreme Court of the
State of California

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS
California Rules of Court, rules 8.208, 8.490(i), 8.494(c), 8.496(c), or 8.498(d)

Supreme Court Case Caption:

EDMUND G. BROWN, JR., as Governor, etc., et al.
Petitioners
v.
SUPERIOR COURT OF SACRAMENTO COUNTY
Respondents.

Please check here if applicable:

☒ There are no interested entities or persons to list in this Certificate as defined in the California Rules of Court.

Name of Interested Entity or Person (Alphabetical order, please.)	Nature of Interest
1.	
2.	

Please attach additional sheets with Entity or Person Information, if necessary.

Date: February 29, 2016

Signature of Attorney or Unrepresented Party

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CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION and ANNE MARIE SCHUBERT

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INTRODUCTION

The Governor, who was not a party in the trial proceeding, has now stepped in and asked this Court to overrule a careful and considered decision of a respected trial court judge, based on a false narrative of "urgency."

First, the Governor falsely implies that if he is unable to get his proposed initiative on the ballot this year, the State will be unable to meet the "federal mandate to reduce its prison population." (Petition for Review, p. 3.) Just last month, however, the Governor and the Attorney General informed the Federal Court that the current prison population was well below the target number stating "[t]he current population is 985 inmates *below* the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (See Exh. A hereto (p.2, lns. 9-10).) Moreover, while the Governor's proposed initiative would most assuredly allow tens of thousands of inmates out of prison, there is no assurance that he can even qualify his measure for the November 2016 ballot, or that it will be passed by the voters. According to the Governor's own paid petition circulator, it will be "challenging" to collect the signatures necessary to qualify the measure within the time prescribed, as he is competing with 14 other initiative proponents who are also seeking to qualify for the ballot. (Declaration of Kimball, para. 3, attached to Petitioners Letter to Court dated February 26, 2016).

Second, the only urgency here was actually **caused** by the Governor himself. Because he waited so long to even commence the initiative qualification process, he was forced to hijack a previously-filed juvenile

justice initiative; strip it of most of its statutory provisions (the original measure was 26 pages long, while the "amended" version totaled only 11 pages); and insert his new proposed Constitutional Amendment that in effect repeals nearly 40 years of sentencing law enacted by the Legislature and the People.

There already are six measures qualified for the ballot and 14 more well into the petitioning process. Those measure proponents started the process months, or even years ago, to make the November election ballot. Even the Secretary of State's own recommended calendar for qualifying statewide initiatives for November 2016 identified "August 25, 2015" as the "suggested last day" for proponents to submit initiative language to the Attorney General for title and summary. (See Exh. B hereto (p. 12).) Instead, the Governor waited five months after the recommend start-time for initiatives to submit his proposed sweeping change in sentencing law.[1] In sum, had the Governor simply started the initiative process just a couple of months earlier (like everyone else who has made the November 2016 ballot), he would not have to improperly co-opt the previously filed juvenile justice initiative and then ask this Court to drop everything and sanction his act on an emergency basis.

Lastly, both the Governor and the Attorney General mischaracterize the trial court's decision, casting it as a new and "unworkable standard." The trial court did not create any standard, much less an unworkable

[1] The Governor states that 2018 is "not an option" without any explanation why. The state is currently in compliance with the federal court order. Moreover, not only can the Governor enlist the Legislature to place his measure on the ballot (See Cal. Const., art. XVIII, § 1.), he can also proceed to qualify his measure as an initiative and call a special election for it at virtually any time. (See Cal. Const., art. II, § 8(c).)

standard. Judge Shelleyanne Chang simply ruled that the Attorney General had abused her discretion in accepting as an "amendment" the Governor's proposed Constitutional Amendment -- that seeks to change four decades of determinate sentencing law for adult prisoners -- because that provision was not "reasonably germane" to the originally-filed measure which was focused exclusively on juvenile and youthful offenders. She based her decision on a complete and accurate reading of Elections Code section 9002, in full agreement with the legislative history that lead to the recent amendment of that section, and by carefully comparing the proposed substantive provisions of the "amendment" to the originally filed initiative.[2]

There is simply no showing of irreparable harm justifying Petitioners' extraordinary request. Moreover, if this Court agrees to a lengthy stay of the trial court decision, it will have effectively decided the case on the merits, as the Governor will commence, and presumably complete petition circulation, thereby gaining the benefit of the violation of law. Even if this Court later determines that the trial judge was correct (as it most assuredly will), there will be no remedy available to correct the Attorney General's error – an error that is intended to be corrected by the Writ of Mandate obtained under Elections Code section 13314.

Perhaps even worse, this Court will have sanctioned an abuse of the initiative process. As one commentator said:

> It would encourage others to adopt similar hide-the-pea tactics on future measures, very much like the sneaky practice of Capitol politicians called 'gut and amend' that is also aimed at shutting out the public.

---

[2] See transcript of trial court proceedings, p. 39-42.)

(See Exh. C hereto, Sacramento Bee Column by Dan Walters (February 26, 2016).)

Based on this and the foregoing, the Real Parties in Interest respectfully request that this Court:

1. Deny Petitioners' request for a stay of Respondent Superior Court's Order dated February 24, 2016;

2. Deny Petitioners' request for issuance of a peremptory writ of mandate (or other relief) directing Respondent Superior Court to vacate its Order dated February 24, 2016; and

3. Issue an Order directing Petitioners to cease their current efforts to qualify the measure for the November 2016 ballot, further prohibiting Petitioners from utilizing any signature(s) collected since the lifting of the stay by this Court, which occurred on Friday, February 26, 2016.

ARGUMENT

A. THE ATTORNEY GENERAL MISAPPLIED THE STANDARD FOR ACCEPTING AMENDMENTS FOUND IN ELECTIONS CODE SECTION 9002. THE TRIAL COURT CORRECTED THIS ERROR BY GRANTING THE WRIT OF MANDATE.

1. The Trial Court Proceeding.

Real Parties in Interest in this matter asked the trial court to prohibit the Attorney General from issuing a circulating title and summary (Elec. Code, § 9004) for an initiative measure that was submitted to her office on January 26, 2016, (the self-titled "Public Safety and Rehabilitation Act of 2016") until that measure had fully complied with the review process and

timetable provided for by Elections Code sections 9002 and 9005. Absent the Writ, the Attorney General would have issued the title and summary:

- *Without* providing the statutorily required 30-day "public review" and "public comment" period;
- *Without* providing the Legislative Analyst's Office ("LAO") the statutorily permitted 50-day period to examine the state and local government fiscal impacts of the initiative; and
- *Without* providing herself the statutorily permitted 65-day period to prepare a title and summary of the chief purpose and points of the measure.

Instead, the Attorney General would have issued a title and summary on or before February 25, 2016, just 30 days after receiving the text of the proposed initiative measure, after having provided *no* public review/public comment period, after giving the LAO just 16 days to analyze an extremely complex initiative, and after providing herself less than half the statutory time allowed to prepare a title and summary for the proposed initiative.[3]

The errors corrected by the trial court were caused directly by the Attorney General's improper decision to accept the January 26, 2016 submission by Petitioners as an "amendment" to Petitioners' prior initiative filed on December 22, 2015 (the self-titled "The Justice and Rehabilitation Act"). In short, the January 26, 2016 language is not an amendment of the prior initiative draft – it is an entirely *new* and different initiative, subject to

[3] Moreover, in addition to the public harm that would have been caused by this error, the Governor would have been allowed to "cut in line" ahead of five other proposed initiatives filed after December 22, 2015 but prior to January 26, 2016.

the same basic, but required, procedural steps governing all ballot initiatives in California.

The trial court determined that the Attorney General should have rejected the January 26 2016 submission as an "amendment" to the prior submission and instead accepted it as a *new* submission, as required and authorized by Elections Code section 9002(b)(4).

2. Factual Background

On December 22, 2015, Petitioners Prinzing and Berezin submitted the "The Justice and Rehabilitation Act" to the Attorney General's Office pursuant to Elections Code section 9001, requesting a circulating title and summary. (See Petitioners' Appendix, Tab 1 and Exh. A thereto.) That submission was designated by the Attorney General as initiative measure number 15-0121. The initial version of the initiative measure proposed several changes in state statutes, primarily in the Welfare & Institutions Code to eliminate a prosecutor's discretion to directly file in adult court a case involving a juvenile, and eliminate all presumptions that serious/violent offenders are unfit to be prosecuted in juvenile court, in favor of juvenile fitness hearings, juvenile transfers, commitment to juvenile facilities for certain offenses, juvenile remand hearings, juvenile court records, and parole hearings for youthful offenders. These statutory laws would have changed significant provisions of law that were part of Proposition 21, enacted by the voters in 2000.

As required by Elections Code section 9002, Real Party in Interest Harris posted the proposed initiative measure on her website for public review for a period of 30 days. The 30-day public review period is to give

members of the public an opportunity to review and also comment on proposed statewide measures. In addition, Attorney General Harris informed the LAO of the submission so that it could commence its review and estimate of the increase or decrease in revenues or costs to State and local government required by Elections Code section 9005.

However, on January 26, 2016 – *after* the close of the mandatory 30-day public review/comment period – Petitioners, at the apparent request of the Governor, filed a purported *amendment* to initiative number 15-0121. This time the measure was titled the "Public Safety and Rehabilitation Act of 2016." (See Petitioners' Appendix, Tab 1 and Exh. B thereto.) And now, instead of focusing on juvenile and youthful offenders, the additional text added a Constitutional Amendment dealing with: (1) post-trial determinate sentencing; (2) parole; and (3) credits awarded to adult prisoners.

The Attorney General accepted the January 26, 2016 submission as an amendment to the prior submission despite the fact that the new submission was not "reasonably germane to the theme, purpose, or subject" of the initial December 22, 2015 submission (pursuant to section 9002). As a consequence, the Attorney General was prepared to issue her circulating title and summary (required by Elections Code section 9004) based on the deadline established by the December 22, 2015 (approximately 65 days following the date of submission), on or before February 25, 2016.

Had the Attorney General rejected the January 26, 2016 submission as an "amendment" and instead treated it as a new submission, she would not be required to issue a circulating title and summary for the new measure

until approximately March 31, 2016 (65 days following the date of the 1/26 submission). More importantly, the public would regain its statutory period for public inspection and public comment, and the LAO would be allowed the full statutory 50-day period (instead of the 16 that were provided in this case) to analyze the fiscal impacts of this new and complex proposed initiative. The circulating title and summary, including a summary of the LAO's fiscal analysis, is printed on the top of every petition section circulated among the voters and is the primary method a voter has to learn how the proposed initiative will change the law and what the fiscal impact of such a change will have on State and local government. (Elec. Code, § 9008.)

Real Parties California District Attorneys Association and Marie Anne Schubert in this proceeding brought their action as a Petition for Writ of Mandate pursuant to Elections Code section 13314 and Code of Civil Procedure sections 1085 and 1086. Section 13314 provides that petitioners who are electors of the State may seek a writ of mandate to correct any error or neglect of official duty that has occurred or is about to occur.

3. Elections Code Section 9002(b) Provides A Limited Opportunity For An Initiative Proponent To "Amend" A Previously Filed Initiative. Such An "Amendment" Is Limited To Changes That Are Reasonably Germane To The Text Of The Original Proposed Initiative.

Prior to 2015, there was little opportunity for an initiative proponent to amend the text of a proposed initiative after he or she submitted the text to the Attorney General with a request for the issuance of a circulating title and summary. Moreover, there was virtually no opportunity for the public to review or comment on a proposed initiative measure during the title and

summary/LAO fiscal analysis period to identify errors, flaws or even typographical or grammatical errors discovered in a proposed initiative.

In 2014, the Legislature passed, and the Governor signed, Chapter 697 (SB 1253, Steinberg) which made several changes to the initiative qualification process. Principal among these changes was the creation of a 30-day public inspection period meant to allow voters and the public to review and comment on new initiative measures. The statute also allows the proponent to "submit amendments to the measure that are reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed." (Elec. Code, § 9002(b).) Elections Code section 9002 provides:

> (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 are reasonably germane to the theme, purpose,

or subject of the initiative measure as originally proposed. However, amendments shall not be submitted if the initiative measure as originally proposed would not effect a substantive change in law.

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

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

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

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

Submissions received after the conclusion of the public review period plus 5 days, or which are not reasonably germane to the original submission, are to be treated as a new submission. (Elec. Code, § 9002(b)(4).)

In considering SB 1253, the State Senate circulated an analysis that clearly summarized the legislative intent of the law in this respect:

> According to the author: ... The prequalification process includes the ability to amend an initiative before it appears on the ballot ***as long as the changes are consistent with the original intent***. ... Presently, there is not a sufficient review

> process of initiatives by the public or the Legislature where either is able to provide greater input and suggest amendments or correct flaws before the measure is printed on the ballot. ***

(California Bill Analysis, Senate Floor, 2013-2014 Regular Session, Senate Bill 1253, August 22, 2014, see Petitioners' Appendix, Tab 1 and Exh. C thereto ["Also, the concern that voters are asked to decide important issues through the initiative process without adequate information is real. This bill aims to provide clearer and more thorough information"] (emphasis added).)[4]

Similarly, the Assembly Committee on Elections and Redistricting analyzed the amendment option in the bill as one meant to help address "errors in the drafting of" and "correcting flaws" in the text of the proposed measure. The Assembly bill analysis pointed out that a significant purpose of the statute included the following:

> ***Identifying and correcting flaws in an initiative measure before it appears on the ballot.*** Currently, proponents of an initiative measure have few options to ***correct the language*** of an initiative measure or to withdraw a petition for a proposed initiative measure, even when flaws are identified. This Act gives voters an opportunity to comment on an initiative measure before the petition is circulated for signatures. ***Public comment may address perceived errors in***

[4] The statutory scheme for newly filed ballot initiative measures also affords the LAO a full 50 days to study the fiscal impact of the proposed initiative measure. In this regard, the "germaneness" requirement is important, because the LAO will have commenced its analysis of the original filing. A late-filed amendment allows the LAO only 15 or more days to analyze the amendments to determine if they change the fiscal impact of the measure. Lastly, the Attorney General is required to issue the title and summary, including a summary of the LAO's fiscal impact analysis within 15 days following receipt of the LAO's review. In total, the entire title and summary/fiscal analysis process must be concluded within 65 calendar days.

the drafting of, or perceived unintended consequences of, the proposed initiative measure.

(California Bill Analysis, Assembly Committee on Elections and Redistricting, June 17, 2014 (emphasis added), see Petitioners' Appendix, Tab 4 and Exh. D (p. 5) thereto).)

Notably, just prior to SB 1253's passage, criticisms were raised by legislators regarding the potential for abuse of the bill's amendment clause, which was identified as possibly creating an opportunity for gutting and amending initiatives after the close of the public review/public comment period:

> 4) Possibility of 'Spot' Initiatives: During the public review period, this bill permits proponents of a proposed initiative measure to submit amendments to the measure. *However, this bill does not place any limitation on the amendments submitted by the proponents. Consequently, this bill does not prevent a proponent from receiving public comments on the text of a 'spot' initiative,* ***and then submitting a substantially revised initiative text to the AG after the 30 day public comment period*** *for the ballot title and summary preparation.* ***This scenario renders the public review process meaningless.*** Moreover, the proponents of a proposed measure could do this and circumvent paying another $200 filing fee.
>
> Furthermore, because this bill does not prevent the submission of a 'spot' initiative, the time period that the Legislative Analyst and DOF have to prepare the fiscal estimate could be negatively impacted. This bill, which extends the time for the DOF and the Legislative Analyst to prepare the fiscal estimate from 25 working days to 50 days, also permits the proponents to submit amendments 5 days after the 30 day public review period. As a result, if the proponents submit an amendment that substantively changes the initiative text, the DOF and Legislative Analyst will only have 15 days to prepare a new fiscal estimate.

(California Bill Analysis, Assembly Committee on Elections and Redistricting, June 17, 2014 (emphasis added), see Petitioners' Appendix, Tab 4 and Exh. D (p. 10) thereto) (emphasis added).)

Following these criticisms, SB 1253 went through a rapid and significant evolution to more fully restrict the type of amendments that could be accepted by the Attorney General.

The language in 9002(b) started as this:

> 9002(b) *During the public review period, the proponents of the proposed initiative measure may submit amendments to the measure.*

It was then amended to this (July 1, 2014):

> 9002(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.***

And was amended again to this (August 4, 2014):

> 9002(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 of the initiative measure as originally proposed. However, amendments shall not be submitted if the initiative measure as originally proposed would not effect a substantive change in law***.

The modification of the second clause in the first sentence and the addition of the entire second sentence in section 9002(b) is an obvious and explicit effort to narrow the scope of permissible amendments, while also

explicitly prohibiting the filing of nonsubstantive placeholder initiatives.[5] This also directly contradicts Petitioners' assertion that so long as a proponent starts with a substantive initiative, that initiative can be gutted and amended into any other substantive initiative, so long as there is a scintilla of similarity to the initial language.

Even stakeholders and legislative observers believed SB 1253's amendment procedures were primarily for the purpose of correcting "legal flaws" in a proposed ballot initiative measure. Writing in support of SB 1253, California Common Cause wrote to the author of the bill (Senator Steinberg), stating the following:

> California Common Cause supports Senate Bill 1253 because it would give voters more accessible information about who is behind each initiative, ensure Voter Guides are easily understood, ***and allow legal flaws to be corrected*** in an initiative before it appears on the ballot. Ultimately these reforms are critical in order to make the ballot measure process more clear, transparency, and fair.

(Senate Bill File, Letter of Support from California Common Cause, March 14, 2014 (emphasis added), see Petitioners' Appendix, Tab 4 and Exh. E thereto).)

The clear purpose of the changes to Elections Code section 9002 was even stated in the final version of the bill itself, which was signed into law by the Governor, and which was relied on by the trial court. Section 2(a)(3) of SB 1253 as chaptered provides in part:

> Identifying and correcting flaws in an initiative measure before it appears on the ballot. Currently proponents of an

[5] Neither the subsequent amendments on August 18, 2014, nor those on August 21, 2014 (the final version that was ultimately signed) made any further changes to Section 9002.

> initiative measure have few options to correct the language of an initiative measure or to withdraw a petition for a proposed initiative measure, even when flaws are identified. This act would give voters an opportunity to comment on an initiative measure before the petition is circulated for signatures. Public comment may address perceived errors in the drafting of, or perceived unintended consequences of, the proposed measure.

In considering a "statute's purpose, legislative history, and public policy," the objective is always to determine which construction of the statute best fits the intent of the Legislature in enacting the statute. (*Coalition of Concerned Communities, Inc. v. City of Los Angeles* (2004) 34 Cal.4th 733, 737.) In doing so, this Court has opined that "[w]here more than one statutory construction is arguably possible, our policy has long been to favor the construction that leads to the more reasonable result.... [O]ur task is to select the construction that comports most closely with the Legislature's apparent intent, with a view to promoting rather than defeating the statutes' general purpose, and to avoid a construction that would lead to unreasonable, impractical, or arbitrary results." (*Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1291.) Judge Chang clearly and properly applied these principles to this case.

Literally all of the relevant statutory history of section 2009(b) points to an unequivocal interpretation that the statute was meant to bring more sunlight to the ballot measure process, not less. That it was meant to increase public participation in the process, not sanction bait-and-switch rewrites of initiatives after the close of the public review/public comment period, and that it was meant to provide more information to voters and proponents early in the initiative process, not provide a vehicle to confuse

and frustrate voters who despise the legislative tactic of gut-and-amend, which shares distinct similarities with the actions of Petitioners in the present matter.

Even the media release distributed by the Governor's office after the Governor signed SB 1253 into law acknowledged the clear purpose of the bill: "SB 1253 - to increase public participation in the initiative process and provide better information to voters on ballot measures." (See Exh. D hereto, Governor's Office Media Release Regarding SB 1253 (September 27, 2014) ["The measure introduces a 30-day public review period at the beginning of the initiative process. Proponents can amend the initiative in response to public input during that review period"].) That same media release also contained a quote attributed to former Chief Justice Ronald George:

> Too often, ballot measures are confusing and poorly written, but there is no chance for initiative backers to make even the most routine changes. This legislation makes common-sense improvements that will help voters understand what their votes mean and enable them to make informed decisions.

In the face of the near unanimous interpretation of SB 1253 and section 9002 (which includes Judge Chang of the superior court in this matter), Petitioners and the Attorney General, argue for an overly broad interpretation of the statute, and one that is not supported anywhere in the legislative history or even a common sense reading of the statute. Petitioners assert that appellate opinions using the phrase "reasonably germane" interpreting the State's so-called "single subject rule" should apply to section 9002. However, comparing the two is a false equivalence.

The single subject rule is embodied in California Constitution, article 2, section 8(d), which provides that "[a]n initiative measure embracing more than one subject may not be submitted to the electors or have any effect." In articulating the proper standard for analyzing the single subject rule, the governing judicial decisions establish that "all parts" of an initiative measure must be "'reasonably germane' to each other, and *to the general purpose or object of the initiative*" as a whole. (*Legislature v. Eu* (1991) 54 Cal.3d 492, 512 (emphasis added); and see *Brosnahan v. Brown* (1982) 32 Cal.3d 236, 253 ["For example, the rule obviously forbids joining disparate provisions which appear germane only to topics of excessive generality such as 'government' or 'public welfare'"].)

Conversely, section 9002 requires that any amendment to a pre-existing proposed ballot initiative be reasonably germane "to the theme, purpose, or subject of the initiative measure ***as originally proposed***." (Emphasis added.) Thus, the limitation in Elections Code section 9002 is clearly different and more restrictive than the broad single subject rule. This is one of the errors corrected by the trial court, where she clearly understood this important distinction.

In the present matter, the frame of the "subject" was established by the originally filed measure – and it was unambiguously juvenile justice reform. Under section 9002, the proposed amendment must be reasonably germane to that subject.

Neither Petitioners nor the Attorney General seemingly grasps this distinction. Instead, they simply say that the proposed amendment, as a

whole, is itself compliant with the single subject.[6] Judge Chang got it right. No "new" unworkable standard was stated or even implied. In fact, the trial court's explanation of this rule actually relieves the Attorney General from making a much more difficult decision regarding the complex "single subject rule" which is the exclusive province of the Court. (*Schmitz v. Younger* (1978) 21 Cal.3d 90, 93.)

If this Court were to accept Petitioners' fraught "single subject" analysis, it would permit broad changes to virtually every proposed ballot measure after the close of the public review/comment period (as Petitioners did here), thereby destroying the very purpose of section 9002 (which, again, is to give the public and voters a meaningful opportunity to review proposed initiative measures and comment on those measures for the purpose of correcting errors and flaws). This Court cannot accept such an interpretation or construction of the statute.

B. THE TRIAL COURT PROPERLY CONCLUDED THAT PETITIONERS' JANUARY 26, 2016 SUBMISSION IS NOT "*REASONABLY GERMANE TO THE THEME, PURPOSE, OR SUBJECT OF THE MEASURE AS ORIGINALLY FILED*" ON DECEMBER 22, 2015, AND THEREFORE MAY NOT BE TREATED AS AN AMENDMENT TO THAT MEASURE.

In comparing the two measures at issue here, there can be no plausible legal argument that the Governor's January 26, 2016 submission is "reasonably germane to the theme, purpose, or subject of the measure as originally filed" on December 22, 2015. Petitioners' (Prinzing and Berezin) original filing was a statutory measure that dealt with juveniles and youthful offenders, proposing changes in law, mostly in the Welfare &

[6] While not at issue here, Real Parties do not concede that the amended initiative is a single subject.

Institutions Code. The subsequent filing proposes to add a constitutional amendment, which cuts a swath through the Penal Code effectively repealing nearly four decades of determinate sentencing law, several voter-approved statewide initiatives, and would permit the granting of parole rights to an estimated 30 - 40 thousand current adult felons serving terms in state prison.

1. The December 22, 2015 Submission.

It is unmistakable that the theme purpose and subject of Petitioners' December 22, 2015 submission was clearly and directly focused on juvenile justice. In particular, the proposed Act would amend several provisions of law enacted by the voters in 2000 (Proposition 21) and specifically would prohibit a district attorney from direct-filing a criminal complaint against a juvenile in adult court. Instead, a district attorney would be required to obtain the consent of a judge in juvenile court after hearing. In addition, many of the presumptions regarding fitness for juvenile vs. adult court are proposed to be repealed. As stated above, these objectives were to be accomplished by the amendment and/or repeal of eight statutes in the Welfare & Institutions Code and three statutes in the Penal Code, all dealing exclusively with juveniles/youthful offenders. The originally filed initiative was 26 pages in length. (See Petitioners' Appendix, Tab 1 and Exh. A thereto.)

It is clear from the operative provisions of Petitioners' December 22, 2015 submission that the theme, purpose and subject of their initially-filed measure was specifically limited to the prosecution and punishment of juveniles and youthful offenders. That is exactly what Judge Chang

concluded: "The theme and purpose of the original initiative was reform of the juvenile justice system."

2. The January 26, 2016 Submission.

In stark contrast to the focus of the December 22, 2015 submission, the January 26, 2016 submission proposes a sweeping overhaul of the State's criminal sentencing law applicable to adults, including tens of thousands currently serving prison sentences – now admittedly to address perceived over-crowding in our state prison system. It does so by proposing a new amendment to the Constitution (art. I, § 32) that would provide:

> (a) The following provisions are hereby enacted to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order, notwithstanding anything in this article or any other provision of law:
>
> (1) Parole consideration: Any person convicted of a non-violent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense. (A) For purposes of this section only, the full term for the primary offense means the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.
>
> (2) Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.
>
> (b) The Department of Corrections and Rehabilitation shall adopt regulations in furtherance of these provisions, and the Secretary of the Department of Corrections and Rehabilitation shall certify that these regulations protect and enhance public safety.

(Petitioners' Appendix, Tab 1 and Exh. B thereto.)

This new proposed constitutional amendment, if adopted, would effectively repeal or substantively change (by constitutional supremacy) at a minimum, the following sentencing, sentence enhancement, and prison credits provisions of law enacted by the Legislature and the People over the last 40 years:

General Sentencing

Penal Code section 1170 - this is the main statutory provision for the Determinate Sentencing Law (DSL):

- The purpose of imprisonment for crime is punishment.
- Provides that the purpose of imprisonment is punishment and that this purpose is best served by "terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances."

Proposition 9 - (Marsy's Law, the Victims' Bill of Rights Act of 2008), enacted November 4, 2008. "Victims of crime have a collective shared right to expect that persons convicted of committing criminal acts are sufficiently punished in both the manner and the length of the sentences imposed by the courts of the State of California." Section 2, paragraph 5, states:

> Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities. The legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences,

except for statutorily authorized credits which reduce those sentences. (Cal. Const., art. I, § 28(f)(5).)

Consecutive Sentencing

Penal Code section 1170.1 - the principal term for determinate (DSL) crimes that are sentenced consecutively under Penal Code section 1170.1(a) is the longest term actually imposed by the court for any of those DSL crimes including any applicable specific (or conduct-type) enhancements, regardless of the sequence of conviction or sentencing; it is imposed as a full term sentence.

Penal Code section 669 – multiple felony offenses and consecutive sentences.

Propositions 184, 36; Penal Code sections 667, 1170.12 – The Three Strikes Law – consecutive sentences on Two Strike and Three Strike cases (mandatory consecutive sentencing for offenses committed on separate occasions).

Penal Code sections 1170.13, 1170.15 – provide for full term consecutive sentencing for certain offenses, including witness intimidation.

Enhancements

Penal Code section 1170.1(a) - Applicable specific enhancements (such as weapons and injury) are added to the base term for the crime; the principal term equals the base term plus such enhancements. (See *People v. Anderson* (1995) 35 Cal.App.4th 587, 592-93.)

Proposition 35 - (Californians Against Sexual Exploitation Act), enacted November 6, 2012. Increases penalties for human trafficking,

including enhancements of 5, 7 or 10 years for infliction of great bodily injury. (Penal Code, § 236.4(b).)

Penal Code section 12022.53 - (10-20-Life Law) when attached to a serious felony, if a firearm allegation is not considered when determining whether an offense is violent, then the 10-20-Life enhancement will be disregarded.

Penal Code section 12022.5 – when attached to a serious felony, if a firearm allegation is not considered when determining whether an offense is violent, then this enhancement which calls for an enhancement of 3-4-10 years will be disregarded.

Penal Code section 1170.11 – lists various "specific enhancements" (i.e., those that relate to the circumstances of the crime), that will be impacted.

Penal Code section 12022(a)(1) – Add one year if any principal in the crime is armed with a firearm during the crime.

Penal Code section 12022(b)(1) – Add one year if the defendant personally uses a deadly or dangerous weapon during the crime (1-2-3 years for completed or attempted carjacking [subd. (b)(2)].)

Penal Code section 12022(c) – Add three, four, or five years if the defendant is personally armed with a firearm during certain specified drug crimes.

Penal Code section 12022.4 – furnishing firearm to another with specific intent it be used in a crime (+1-2-3 years).

Penal Code section 12021.5 – carry firearm in street gang crime (+1-2-3 years).

Penal Code section 12022.75 – administering a date rape drug during sex acts against victim (+5 years).

Penal Code section 12022.85 – committing non-violent sex crimes knowing you have AIDS or are HIV positive (+3 years).

Penal Code section 12022.9 – injury on a pregnant female terminating pregnancy (+5 years).

Penal Code section 186.11 – white collar fraud/embezzlement enhancement if loss over $500,000 (+2-3-5 years).

Penal Code section 12022.6 – Add enhancements as follows if the defendant intentionally causes loss exceeding these amounts: subd. (a)(1) $65,000 – add one year; subd. (a)(2) $200,000 – add two years; subd. (a)(3) $1.3 million – add three years; subd. (a)(4) $3.2 million – add four years.

Penal Code section 667.9(a) – Add one year to each offense if the defendant commits a listed felony against a known vulnerable victim.

Penal Code section 667.9(b) – If the current offense is a listed felony committed against a known vulnerable victim and the defendant has a prior conviction for any listed felony, add two years to each current offense.

Penal Code section 368(b)(2), (b)(3) – Enhancements for the crime of elder abuse.

Penal Code section 422.75(a), (b) – Enhancements for a felony that is a hate crime.

Penal Code section 186.22(b)(1) – Add enhancements as follows if the defendant commits any felony for gang purposes: subd. (b)(1)(A) – add two, three, or four years if the underlying felony is not a serious or violent felony (middle term presumption deleted eff. 1/1/10 and will be repealed

1/1/17 unless extended; see section VI.E.6.); subd. (b)(1)(B) – add five years if the underlying felony is a serious felony; subd. (b)(1)(C).

Health & Safety Code section 11370.4; Health & Safety Code section 11379.8 – Enhancements for drug crimes based on weight or volume of the substance.

Health & Safety Code section 11353.1 – enhancements involve transactions near schools.

Health & Safety Code section 11353.6 – drug dealing near schools when kids are present (+3-4-5 years).

Health & Safety Code section 11379.7 – manufacturing drugs when kids under 16 are present (+2 years).

Vehicle Code section 23558 – Add one year for each additional victim (three years maximum) if the defendant injures multiple victims in felony drunk driving or intoxicated vehicular manslaughter.

Vehicle Code section 20001(c) DUI + hit & run + death - +5 years; Penal Code section 191.5(d) – 15 years-to-life term for gross vehicular manslaughter DUI with specified prior.

Penal Code section 12022.1 – Add two years and mandatory consecutive sentencing if the defendant commits a new crime while released on bail or O.R. on a prior crime and is convicted of both.

Prior Convictions

Penal Code section 1170.1(a) - For determinate sentences, prior convictions that are used for enhancement are part of the additional term; such priors are added once to the total term of imprisonment, not to each separate count or case; they are imposed as full term enhancements (*People*

v. Tassell (1984) 36 Cal.3d 77, 89-92. [overruled on other grounds in *People v. Ewoldt* (1994) 7 Cal.4th 380, 401].)

Proposition 8 - (The Victims' Bill of Rights), enacted June 1982. "Any prior felony conviction of any person in any criminal proceeding...shall subsequently be used without limitation for purposes of ... enhancement of sentence in any criminal proceeding." (Cal. Const., art. I, § 28(f), renumbered by Prop. 9 in 2008 as Art. I, § 28(f)(4).)

Proposition 21 - (The Gang Violence and Juvenile Crime Prevention Act of 1998), enacted March 2000. "Vigorous enforcement and the adoption of more meaningful criminal sanctions, including the voter-approved 'Three Strikes' law, Proposition 184, has resulted in a substantial and consistent four year decline in overall crime." (Section 2 (c).)

Proposition 35 - (Californians Against Sexual Exploitation Act), enacted November 6, 2012. Increases penalties for human trafficking, including enhancement of 5 years if the defendant has a prior conviction. (Penal Code, § 236.4(c).)

Propositions 184 & 36; Penal Code sections 667, 1170.12 - (Three Strikes Law). "Three Strikes and You're Out" is a statute designed to punish habitual criminals who have one or more qualifying prior felony convictions ("strikes"). There are two nearly identical versions of this statute which apply to crimes committed after their effective dates (legislative statute: Penal Code section 667(b)-(i) effective 2:45 p.m. on 3/9/94; initiative statute: Penal Code section 1170.12, effective 11/9/94). The Three Strikes law was substantially amended by initiative measure (Proposition 36, effective November 7, 2012). Three Strikes is considered

an "alternative sentencing scheme" by the courts. (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 527; *People v. Cressy* (1996) 47 Cal.App.4th 981, 991; *People v. Sipe* (1995) 36 Cal.App.4th 468, 485-486.)

Penal Code section 667(a) – If the current offense is a "serious felony" as defined in Penal Code section 1192.7(c), add five years for each separate "serious felony" prior conviction.

Penal Code section 667.5(b) – If the current offense is any felony, add one year for each prior separate prison term.

Health & Safety Code section 11370.2 – Drug priors; if the current offense is a specified drug crime, add three years for each prior conviction for a specified drug crime.

Credits

Penal Code section 2933 – Custody time in state prison is reduced by credits; these credits are based on the formula of one day credit for one day served; this results in approximately a one-half reduction of the balance of the term imposed.

Penal Code section 2933.1 – credits on "violent" offenses per 667.5(c) limited to 15%.

Penal Code section 2933.2; Penal Code section 190(e) – no conduct credit reduction of murder minimum terms.

Penal Code sections 667(c)(5); 1170.12(a)(5) - (Three Strikes Law) Conduct credit reduction of the total term of imprisonment is limited to a maximum of 20% post-sentence if the defendant has a prior "strike" conviction.

Propositions 184, 36; Penal Code section 667, 1170.12 – no conduct credit reduction of the minimum term of a "three-strike" life sentence, and prison credits on other terms, including enhancements, are limited to 20% or 15% (*In re Cervera* (2001) 24 Cal.4th 1073; *People v. Stofle* (1996) 45 Cal.App.4th 417).

Penal Code section 3040 *et seq.* – Credits on indeterminate sentences. After serving a designated minimum sentence, and periodically thereafter, these prisoners appear before a parole board.

Penal Code section 3046 – for indeterminate offenses, provides that "life" means seven actual calendar years with no conduct credits.

Proposition 9 - (Marsy's Law) victims' rights initiative (effective 11/5/08) makes numerous changes relating to victim notification and participation, as well as substantial changes to parole provisions.

Proposition 222 - (June 2, 1998) eliminated any conduct credit reduction of the prison term for defendants convicted of murder.

Judge Chang correctly found: "[t]he amendment deals with primarily reform of the adult justice system, including parole eligibility, status and credits of adult offenders." This amendment enacts sweeping change in sentencing law for adults, which is not reasonably germane to the prior submission, which was focused on the procedures for prosecuting juveniles as adults. Petitioners focus almost exclusively on one provision of the prior submission that proposed an amendment to Penal Code section 3051. That provision, as proposed to be amended would have eliminated sentence enhancements from the definition of "controlling offense" for determining suitability for parole hearings for "youthful offenders" (juveniles treated as

adults or persons under age 23 years of age at the time of his or her offense).

From this, Petitioners and Attorney General argue that the originally proposed measure related to "adults." This is nonsense and the trial court correctly reached the same conclusion. Petitioners' reliance on self-serving statements in the originally filed measures' "findings and declarations" and "purpose and intent" do not change what the actual substantive provisions of law entailed.

Moreover, Petitioners never explain why 15 pages of text were removed from the prior submission. Where the first submission was clearly directed at juvenile justice, the second initiative now contains only a few ancillary provisions regarding juvenile justice. The primary, that is the chief, purpose of the Governor's proposed initiative is aimed directly at the adult prison population – the tail now wags the dog.

Lastly, California policy has long-treated juvenile offenders differently than adult offenders. The penal philosophy for adults is one of punishment. The philosophy for juveniles is one of rehabilitation. *In re Eric J* (1979) 25 Cal.3d 522, 531–532.) The purported amendment was clearly not reasonably germane to the originally filed juvenile justice initiative.

C. THE DOCTRINE OF SUBSTANTIAL COMPLIANCE DOES NOT CURE THE MISTAKE BY THE ATTORNEY GENERAL.

Petitioners contend that despite a complete re-write of an initiative measure which thus far has avoided all public review/comment under section 9002(b), and a truncated analysis by the LAO, the measure

proponents nevertheless have "substantially complied" with section 9002. While Petitioners did *not* make this argument in the trial proceeding, Judge Chang nonetheless raised it in her decision and concluded correctly that there was no substantial compliance here.[7]

The substantial compliance doctrine has its origin in earlier cases, but was more fully set out in *Assembly v. Deukmejian* (1982) 30 Cal.3d 638, 652-653, where this Court opined that the "requirements of both the Constitution and the statute are intended to and do give information to the electors" when considering initiative measures. (See also *Costa v. Superior Court* (2006) 37 Cal.4th 986, 1016 [Substantial compliance is inapplicable where departures from statutory requirements "affect the integrity of the process by misleading (or withholding vital information from)" voters considering initiative measures]; and see *Boyd v. Jordan* (1934) 1 Cal.2d 468 [Where ballot initiative materials failed to provide adequate information to voters, such initiative measure did not meet the substantial compliance test and was not entitled to appear on the ballot].) Petitioners rely on *Costa*. This Court's analysis and holding in that case, however, also illustrate why Petitioners' January 26 language in the present matter failed to meet the test of substantial compliance.

In *Costa*, initiative proponents had submitted two versions of their proposed measure to the attorney general for preparation of a statutorily-

[7] Petitioners and the Attorney General spend much time arguing that during the hearing Judge Chang seemed to conclude that an amendment received before the conclusion of the public review period would be permissible. That is not what she ruled. Judge Change was simply stating that perhaps if an amendment was filed early in the public review period, the doctrine of substantial compliance might be applicable. Since that did not occur here, the doctrine would not save the Petitioners and the Attorney General from their error.

required title and summary. In printing their petitions, the proponents mistakenly used the title and summary for one version of the measure, but used the other version of the text of the measure. The Court noted that while the two versions of the measure differed in substantive but minor respects (*Id.*, at 996), the two versions of the title and summary, by contrast, "did not differ in any material respect" so the defect "did not mislead the public or otherwise frustrate the purpose" of the statutory requirement. (*Id.*, at 1024 (emphasis added).) That is the classic test of substantial compliance: Voters were not deprived of required information and the purpose of the statute was not frustrated. By contrast, in the present case, the public and voters were fully deprived of an opportunity for public review/public comment on the new language pursuant to section 9002, and the LAO was given just 15 days to analyze the fiscal impact of the new sweeping change in sentencing law instead of the statutory 50-day period. The failure to provide this opportunity fully frustrated the overriding purpose of section 9002(b) and, as a result, the Attorney General's mistake cannot be cured by the doctrine of substantial compliance.

Finally, Petitioners' also apparently seek a waiver of application of section 9002 based upon their curious promise to not accept any additional comments on their new measure. (Petitioners' Brief, p. 35.) Of course, this is not how section 9002 works. The statute is not optional for initiative proponents who commit to eschewing public review/comment. No, instead the statute is mandatory and applies to any new measure, regardless of whether that new measure is fictitiously introduced as an amendment to an existing initiative, or introduced as a self-identified new measure. Indeed,

Petitioners' strenuous assertions that a public review/comment period on their new language would be a "futile act" speak volumes. This is the same attitude the Legislature takes with their authority to gut-and-amend legislation at the last minute without any meaningful public review. This Court should stand against such abuse of power and process.

CONCLUSION

The trial court's decision was correct and Petitioners have offered no basis for this Court to grant any emergency relief. Therefore, the instant Petition must be denied.

Dated: February 29, 2016. Respectfully submitted,

BELL, McANDREWS & HILTACHK, LLP

By: _____
THOMAS W. HILTACHK
BRIAN T. HILDRETH

Attorneys for Real Parties in Interest,
CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION and ANNE MARIE SCHUBERT

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Rule 8.204(c)(1) and 8.360(b)(1) of the California Rules of the Court, the enclosed brief of CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION is produced using 13-point Times New Roman type including footnotes and contain approximately 8,169 words, which is less than the total words permitted by the rules of the court. Counsel relies on the word count of the computer program, Microsoft Word 2010, used to prepare this brief.

Dated: February 29, 2016 **BELL, McANDREWS & HILTACHK, LLP**

By: _____
THOMAS W. HILTACHK
BRIAN T. HILDRETH

Attorneys for Real Parties in Interest,
CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION and ANNE MARIE SCHUBERT

TABLE OF EXHIBITS

Tab No.	Document Description
A.	Defendants' January 2016 Status Report in Response to February 10, 2014 Order in case *Coleman v. Brown, et al.*, USDC, Eastern District Case No. 2:90-cv-00520 KMJ KJN PC
B.	*Statewide Initiative Guide,* California Secretary of State Alex Padilla, December 2015 revised edition
C.	*Brown's end run stumbles,* Dan Walters, The Sacramento Bee, February 26, 2016
D.	*Governor Brown Signs Ballot Reform Measure*, September 27, 2014 Press Release

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 455 Capitol Mall, Suite 600, Sacramento, CA 95814.

On February 29, 2016, I served the following: **PRELIMINARY OPPOSITION OF REAL PARTY IN INTEREST, CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION AND ANNE MARIE SCHUBERT TO EMERGENCY PETITION FOR WRIT OF MANDATE AND REQUEST FOR IMMEDIATE STAY AND/OR OTHER APPROPRIATE RELIEF**

on the following parties:

SEE ATTACHED SERVICE LIST

X **BY ELECTRONIC MAIL:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail address of each party listed.

X **BY FEDERAL EXPRESS MAIL:** By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the FEDERAL EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

___ **BY EXPRESS MAIL:** By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the U.S.P.S. EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 29, 2016, at Sacramento, California.

CORIANNE DURKEE

SERVICE LIST

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Connie LeLouis Supervising Deputy Attorney General *Connie.LeLouis@doj.ca.gov* Paul Stein Deputy Attorney General *Paul.Stein@doj.ca.gov* Tamar Pachter Deputy Attorney General *Tamar.Pachter@doj.ca.gov* CALIFORNIA DEPT OF JUSTICE 1300 I Street Suite 1330 Sacramento , California 95814 *Via Electronic Mail*	Real Parties in Interest, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, KAMALA HARRIS
Honorable ShelleyAnne Chang Sacramento Superior Court 720 Ninth Street Sacramento, CA 95814 *Via Overnight Mail*	Respondent SACRAMENTO SUPERIOR COURT

EXHIBIT A

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IN THE UNITED STATES DISTRICT COURTS

FOR THE EASTERN DISTRICT OF CALIFORNIA

AND THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES

PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

RALPH COLEMAN, et al., Plaintiffs, **v.** **EDMUND G. BROWN JR., et al.,** Defendants.	2:90-cv-00520 KJM KJN PC **THREE-JUDGE COURT**
MARCIANO PLATA, et al., Plaintiffs, **v.** **EDMUND G. BROWN JR., et al.,** Defendants.	C01-1351 TEH **THREE-JUDGE COURT** **DEFENDANTS' JANUARY 2016 STATUS REPORT IN RESPONSE TO FEBRUARY 10, 2014 ORDER**

The State submits this status report on the current in-state and out-of-state adult prison populations and the measures being taken to reduce the prison population in response to the Court's February 10, 2014 Order Granting in Part and Denying Part Defendants' Request for Extension of December 31, 2013 Deadline (February 10, 2014 Order).

Exhibit A sets forth the current design bed capacity, population, and population as a percentage of design bed capacity for each state prison and for all state prisons combined. As of January 13, 2016, 112,737 inmates were housed in the State's 34 adult institutions, which amounts to 136.3% of design bed capacity, and 5,173 inmates were housed in out-of-state facilities.[1] The current population is 985 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015. (*See* Ex. A.) Exhibit B sets forth the status of the measures detailed in the February 10, 2014 Order that Defendants have implemented to reduce the prison population. (ECF 2766/5060 at ¶¶ 4-5.)

Dated: January 15, 2016

KAMALA D. HARRIS
Attorney General of California

By: */s/ Maneesh Sharma*
MANEESH SHARMA
Deputy Attorney General
Attorneys for Defendants

Dated: January 15, 2016

HANSON BRIDGETT LLP

By: */s/ Paul B. Mello*
PAUL B. MELLO
Attorneys for Defendants

[1] The data in Exhibit A is taken from CDCR's January 13, 2016 weekly population report, available on CDCR's Web site at http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad160113.pdf

Exhibit A

Exhibit A
Population as of January 13, 2016

Institution	Design Capacity	Actual Population	Population as % of design capacity
Total housed in adult institutions[1]	82,707	112,737	136.3%
Total housed in camps		3,582	
Total housed out of state		5,173	
Individual CDCR Institutions - Men			
Avenal State Prison	2,920	3,332	114.1%
California State Prison, Calipatria	2,308	3,823	165.6%
California Correctional Center*	3,883	3,909	100.7%
California Correctional Institution	2,783	3,609	129.7%
California State Prison, Centinela	2,308	3,166	137.2%
California Health Care Facility, Stockton	2,951	2,198	74.5%
California Institution for Men	2,976	3,489	117.2%
California Men's Colony	3,838	4,007	104.4%
California Medical Facility	2,361	2,520	106.7%
California State Prison, Corcoran	3,116	4,129	132.5%
California Rehabilitation Center	2,491	2,810	112.8%
Correctional Training Facility	3,312	5,090	153.7%
Chuckawalla Valley State Prison	1,738	2,349	135.2%
Deuel Vocational Institution	1,681	2,616	155.6%
Folsom State Prison	2,066	2,370	114.7%
High Desert State Prison	2,324	3,562	153.3%
Ironwood State Prison	2,200	3,429	155.9%
Kern Valley State Prison	2,448	3,906	159.6%
California State Prison, Los Angeles	2,300	3,585	155.9%
Mule Creek State Prison	1,700	2,793	164.3%
North Kern State Prison	2,694	4,213	156.4%
Pelican Bay State Prison	2,380	2,390	100.4%
Pleasant Valley State Prison	2,308	3,094	134.1%
RJ Donovan Correctional Facility	2,200	3,206	145.7%
California State Prison, Sacramento	1,828	2,281	124.8%
California Substance Abuse Treatment Facility, Corcoran	3,424	5,421	158.3%
Sierra Conservation Center*	3,836	4,350	113.4%
California State Prison, Solano	2,610	3,854	147.7%
California State Prison, San Quentin	3,082	3,750	121.7%
Salinas Valley State Prison	2,452	3,649	148.8%
Valley State Prison	1,980	3,475	175.5%
Wasco State Prison	2,984	4,781	160.2%
Individual CDCR Institutions - Women			
Central California Women's Facility	2,004	2,743	136.9%
California Institution for Women*	1,398	1,936	138.5%
Folsom Women's Facility	403	484	120.1%

* The individual Design Capacity and Actual Population figures for California Correctional Center, Sierra Conservation Center and California Institute for Women include persons housed in camps. This population is excluded from the "Total housed in adult institutions" included on Exhibit A.

[1] The "Actual Population" includes inmates housed in medical and mental health inpatient beds located within Correctional Treatment Centers, General Acute Care Hospitals, Outpatient Housing Units, and Skilled Nursing Facilities at the State's 34 institutions. Many of those beds are not captured in "Design Capacity".

Source - January 13, 2016 Weekly Population Report, available at:
http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Population_Reports.html.

Exhibit B

OFFICE OF LEGAL AFFAIRS
Patrick R. McKinney II
General Counsel
P.O. Box 942883
Sacramento, CA 94283-0001

January 15, 2016

Paul Mello
Hanson Bridgett
1676 N. California Blvd., Suite 620
Walnut Creek, CA 94596

Dear Mr. Mello:

Attached, please find California Department of Corrections and Rehabilitation's Status Update for 3JP.

Sincerely,

Patrick R. McKinney II
General Counsel, Office of Legal Affairs
California Department of Corrections and Rehabilitation

Attachments

JANUARY 15, 2016 UPDATE TO THE THREE-JUDGE COURT

In response to the Three-Judge Court's February 10, 2014 Order, CDCR Staff report on the status of the following measures being taken to reduce the State's adult inmate population. This report reflects CDCR's efforts as of January 15, 2016 to develop and implement measures to comply with the population reduction order. Because this is an evolving process, CDCR reserves the right to modify or amend its plans as circumstances change. At present, the State's prison population is approximately 136.3% of design capacity.

1. Contracting for additional in-state capacity in county jails, community correctional facilities, private prison(s), and reduction of out-of-state beds:

   Defendants have reduced the population in CDCR's 34 institutions by transferring inmates to in-state facilities.

   a. Private Prison (California City):

      The current population of California City is approximately 1,882 inmates.

   b. Community correctional facilities (CCFs) and modified community correctional facilities (MCCFs):

      The State currently has contracted for 4,218 MCCF beds that are in various stages of activation and transfer.

   c. County jails:

      The State continues to evaluate the need for additional in-state jail bed contracts to house CDCR inmates.

   d. Reduction of inmates housed out-of-state:

      On February 10, 2014, the Court ordered Defendants to "explore ways to attempt to reduce the number of inmates housed in out-of-state facilities to the extent feasible." Since that time, the State has reduced the out-of-state inmate population to 5,173 and has closed the Oklahoma out-of-state facility. Under the Fiscal Year 2015-16 budget, approximately 270 additional out-of-state beds will be reduced by the end of June 2016.

2. Reentry Hubs:

   The State continues to maintain thirteen prison-based reentry hubs.

3. Newly-enacted legislation:

   The State continues to implement Senate Bill 260 (2013), which allows inmates whose crimes were committed as minors to appear before the Board of Parole Hearings (the Board) to demonstrate their suitability for release after serving at least fifteen years of their sentence. From January 1, 2014 through December 31, 2015, the Board held 925

youth offender hearings, resulting in 249 grants, 581 denials, 95 stipulations to unsuitability, and there are currently no split votes that require referral to the full Board for further consideration. An additional 485 hearings were scheduled during this time period, but were waived, postponed, continued, or cancelled. On October 3, 2015, the State enacted Senate Bill 261, which expands the youth offender parole process described above to include inmates who committed their controlling offense before the age of 23. Inmates who are immediately eligible for a hearing will receive a hearing date by January 1, 2018, if sentenced to an indeterminate life term, and by December 31, 2021, if sentenced to a determinate life term.

On October 3, 2015, the State also enacted Senate Bill 230, which provides that life inmates who are granted parole will be eligible for release, subject to applicable review periods, upon reaching their minimum eligible parole date. Life inmates will no longer be granted parole with future parole dates.

Proposition 36, passed by the voters in November 2012, revised the State's three-strikes law to permit resentencing for qualifying third-strike inmates whose third strike was not serious or violent. As of December 23, 2015, approximately 2,168 third-strike inmates have been released.

On November 4, 2014, the voters passed Proposition 47, which requires misdemeanor rather than felony sentencing for certain property and drug crimes and permits inmates previously sentenced for these reclassified crimes to petition for resentencing. As of January 6, 2016, approximately 4,532 inmates have been released under Proposition 47.

4. Prospective credit-earning increase for non-violent, non-sex registrant second-strike offenders and minimum custody inmates:

Effective from the date of the Court's February 10, 2014 Order, non-violent, non-sex second-striker offenders are earning credits at the rate of 33.3% (increased from the previous rate of 20%) and are also eligible to earn milestone credits for rehabilitative programs. The State's automated systems have been modified and the court-ordered credits are being automatically applied, including milestone credits. In December, 269 inmates were released as a result of the court-ordered credit increases.[1] These inmates earned an average of 148.8 days of additional credit. Of the 269 inmates released in December, 171 earned milestone completion credits toward their advanced release date. Since April 2014, approximately 3,682 inmates who have been released as a result of this credit measure earned milestone credits toward their advanced release date.

As of January 1, 2015, Defendants expanded 2-for-1 credit earnings for all inmates designated Minimum Custody A or B pursuant to California Code of Regulations Title 15 Section 3377.1 who are currently eligible to earn day-for-day (50%) credits. These credits are being applied prospectively to the 663 inmates who are currently eligible under this program. Since January 1, 2015, 2,728 total inmates have been released receiving expanded 2-for-1 earnings.

[1] Of the 269 inmates, 165 were released to Post Release Community Supervision and 104 were released to parole.

5. New parole determination process whereby non-violent second-strikers will be eligible for parole consideration by the Board once having served 50% of their sentence:

Classification committees are reviewing inmates for eligibility and referring them to the Board. From January 1, 2015 through December 31, 2015, 3,747 non-violent second-strike inmates were referred to the Board for review for parole. During this time period, the Board approved 1,660 inmates for release and denied release to 1,595 inmates. Many cases are pending review because the 30-day period for written input from inmates, victims, and prosecutors has not yet elapsed. Others are pending review until the inmate is within 60 days of his or her 50 percent time-served date.

6. Parole determination process for certain inmates with indeterminate sentences granted parole with future parole dates:

The Board authorized the release of 16 inmates who were granted parole with future dates since the last report to the Court. As described above, Senate Bill 230, which took effect on January 1, 2016, provides that life inmates who are granted parole will be eligible for release, subject to applicable review periods, upon reaching their minimum eligible parole date as long as they have no outstanding holds, detainers, warrants, or *Thompson* terms. As a result, commencing January 1, 2016, the Board will issue release memoranda for all inmates whose future release dates were eliminated as a result of SB 230 and have reached their minimum eligible release date.

7. Parole process for medically incapacitated inmates:

The State continues to work closely with the Receiver's Office to implement this measure. The Receiver's Office is continuing to review inmates and is sending completed recommendations to CDCR. Recommendations received from the Receiver's office are reviewed by DAI and referred to the Board for a hearing. As of January 9, 2016, the Board has held 65 medical parole hearings under the revised procedures. An additional 20 were scheduled, but were postponed, continued, or cancelled.

8. Parole process for inmates 60 years of age or older having served at least 25 years:

The Board continues to schedule eligible inmates for hearings who were not already in the Board's hearing cycle, including inmates sentenced to determinate terms. From February 11, 2014 through December 31, 2015, the Board has held 1,080 hearings for inmates eligible for elderly parole, resulting in 288 grants, 710 denials, 82 stipulations to unsuitability, and there currently are no split votes that require further review by the full Board. An additional 496 hearings were scheduled during this time period but were waived, postponed, continued, or cancelled.

9. Reentry programs:

Contracts for the San Francisco, Marin, Los Angeles, and Kern County reentry programs are in place. The State continues to review and refer eligible inmates to county officials for consideration for placement. As of January 14, 2016, the 150-bed facility in Los Angeles County houses 109 inmates and the 50-bed facility in Kern County houses 15 inmates.

10. Expanded alternative custody program:

The State's alternative custody program for females, Custody to Community Transitional Reentry Program (CCTRP), provides female inmates with a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support. Female inmates in the CCTRP are housed at one of three facilities located in San Diego, Santa Fe Springs (LA), and Bakersfield.

As of January 14, 2016, the 82-bed San Diego facility houses 76 female inmates, the 82-bed Santa Fe Springs (LA) facility houses 80 female inmates, and the 75-bed Bakersfield facility houses 75 female inmates.

EXHIBIT B

California Secretary of State Alex Padilla

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/ (http://www.google.com/url?q=http%3A%2F%2Fwww.sos.ca.gov%2Felections%2Fballot-measures%2Finitiative-and-referendum-status%2F&sa=D&sntz=1&usg=AFQjCNHwlsGW5KGqQsZk0ooxLFunLDtI_Q)** 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 (http://cms.sos.ca.gov/elections/voting-resources/new-voters/county-elections-offices/).

Revised December 2015

Chapter I - The Initiative Process

Step One - Writing the Initiative Measure (Text of the Law)

The first step in the process of qualifying an initiative measure is to write the text of the proposed law.

Proponent(s) may seek the assistance of their own private counsel to help draft the text of the proposed law, or they may choose to write the text themselves. The proposed initiative measure's proponent(s) may also obtain assistance from the Office of the Legislative Counsel in drafting the language of the proposed law. Proponent(s) must obtain the signatures of 25 or more electors on a request for a draft of the proposed law; proponent(s) must then present the idea for the law to the Legislative Counsel. If the Legislative Counsel determines that there is a reasonable probability the proposed initiative measure will eventually be submitted to the voters, the Legislative Counsel will draft the proposed law. (Government Code § 10243.)

Additionally, the proponent(s) can request the Secretary of State to review the provisions of the proposed initiative measure after it is prepared and prior to its circulation. Upon this request, the Secretary of State will review the measure with respect to form and language clarity and will request and obtain a statement of fiscal impact from the Legislative Analyst's Office. (Government Code § 12172.)

For more information contact:
Office of the Legislative Counsel
State Capitol, Room 3021
Sacramento, CA 95814
(916) 341-8000 / **www.legislativecounsel.ca.gov (http://www.legislativecounsel.ca.gov/)**

Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95814
(916) 657-2166 / **www.sos.ca.gov (http://www.sos.ca.gov)**

Step Two - Request for Circulating Title and Summary

Written Request, Fee, Statement, and Certificate

Once the proposed initiative measure has been written, the proponent(s) must submit a draft of the proposed initiative measure to the Attorney General with a written request that a circulating title and summary of the chief purpose and points of the proposed initiative measure be prepared. (Elections Code § 9001(a).) At the time of submitting the draft to the Attorney General, the proponent(s) must pay a fee of $2,000. The $2,000 fee is placed in a trust fund in the Office of the State Treasurer and is refunded if the initiative measure qualifies for the ballot within two years after the summary has been issued to the proponent(s). If the proposed initiative measure fails to qualify within that period, the fee is put into the General Fund of the State. (Elections Code § 9001(c).)

At the time the request for a circulating title and summary is submitted, the proponent(s) must provide public contact information and an original signed certification that reads as follows (Elections Code § 9001(b)):

> I, _____, declare under penalty of perjury that I am a citizen of the United States, 18 years of age or older, and a resident of _____county, California.

Additionally, at the time the request for a circulating title and summary is submitted; the proponents(s) must also execute and submit a signed statement that reads as follows (Elections Code § 9608):

> I, _____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.
>
> _____
> (Signature of Proponent)
>
> Dated this _____ day of _____, 20_____

This statement shall be kept on file at the Attorney General's Office for not less than eight months after the certification of the results of the election for which the measure qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials. (Elections Code § 9608(b).)

Once a request for a circulating title and summary has been submitted, the Attorney General's Office will post the text of the proposed initiative measure on their website and facilitate a 30-day public review process during which any member of the public may submit written public comment to the Attorney General's Office via their website. The Attorney General's Office will provide any written public comments received during the public review period to the proponent(s). (Elections Code § 9002 (a).)

During the public review period, an amendment signed by all of the proponents may be submitted to the Attorney General's Office. Any amendments to the proposed initiative measure must be reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed. An amendment shall not be accepted more than five days after the public review period is concluded. (Elections Code § 9002 (b).)

For more information contact:
Office of the Attorney General
ATTN: Initiative Coordinator
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 445-4752 / **www.oag.ca.gov (http://www.oag.ca.gov)**

Circulating Title and Summary and Fiscal Estimate or Opinion

Upon receipt of the fee and request, and after the public review period, the Attorney General will prepare a circulating title and summary, which will be the official summary of the proposed initiative measure. (Elections Code § 9004(a).)

The Attorney General shall provide a copy of the circulating title and summary and its unique numeric identifier to the Secretary of State and the proponent(s) within 15 days after receipt of the fiscal estimate or opinion prepared by the Department of Finance and the Legislative Analyst. (Elections Code §9004(b).) The date the copy is delivered or mailed to the proponent(s) is the "official summary date." (Elections Code §§ 336, 9004(b).) The Attorney General, in preparing a circulating title and summary shall in boldface print, include either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government or an opinion as to whether or not a substantial net change in state or local finances would result. (Elections Code § 9005(a).) The Department of Finance and the Legislative Analyst are required to jointly prepare this estimate within 50 days of the date of receipt of the proposed initiative measure by the Attorney General. If, in the opinion of both the Department of Finance and the Legislative Analyst, a reasonable estimate of the net impact of the proposed initiative measure cannot be prepared within the 50-day period, the Department of Finance and the Legislative Analyst shall, within the 50-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative measure is adopted. (Elections Code §§ 9005(b),(c).)

When the official circulating title and summary is complete, the Attorney General will send it and the text of the measure to the Senate and the Assembly. The Legislature may conduct public hearings on the proposed initiative measure but cannot amend it or prevent it from appearing on the ballot. (Elections Code § 9007.)

Official Summary Date

The official summary date, the date the circulating title and summary is sent to the proponent(s) by the Attorney General, is the date the Secretary of State uses to calculate calendar deadlines provided to the proponent(s) and elections officials. (Elections Code §§ 336, 9004.) **No petition may be circulated prior to the official summary date.** (Elections Code § 9014.)

Step Three - Format of Petitions

The format for the initiative petition is specified by law. County elections officials will not accept or file petitions which do not comply with the Elections Code. (Elections Code § 9015.) A petition may have several sections. Each section of the petition must contain the Attorney General's circulating title and summary and the full text of the proposed initiative measure. (Elections Code § 9012.) The Attorney General's circulating title and summary shall be in at least 12-point Roman boldface type and the full text of the proposed initiative measure shall be in at least 8-point type. Each page on which signatures are to appear must contain a copy of the Attorney General's circulating title and summary and the unique numeric identifier provided by the Attorney General. (Elections Code §§ 9008, 9009, 9012.)

Heading

The heading of each section of a proposed initiative petition shall be in substantially the following form and must be printed in 12-point or larger Roman boldface type (Elections Code §§ 9008, 9009):

Initiative Measure to Be Submitted
Directly to the Voters

Circulating Title and Summary

Immediately after the heading, insert the following statement:

The Attorney General of California has prepared the following circulating title and summary of the chief purpose and points of the proposed measure:

Next set forth the unique numeric identifier provided by the Attorney General and the circulating title and summary prepared by the Attorney General. The unique numeric identifier and title and summary must also be printed across the top of each page of the petition whereon signatures are to appear in 12-point or larger Roman boldface. (Elections Code §§ 9008, 9009.)

Text of the Proposed Initiative Measure

The text of the proposed initiative measure must be inserted immediately following the unique numeric identifier and circulating title and summary prepared by the Attorney General, preceded by the following statement (Elections Code §§ 9008, 9009):

To the Honorable Secretary of State of California

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to [(the Constitution of California) (the _____ Code, relating to _____)] and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed [constitutional (or statutory)] amendments read as follows:

[Insert full circulating title and summary and text of the measure.]

Signature Section

Above the portion of the petition where voters are to sign, a notice in 12-point type must appear containing the following statements (Elections Code § 101):

NOTICE TO THE PUBLIC
THIS PETITION MAY BE CIRCULATED BY A PAID
SIGNATURE GATHERER OR A VOLUNTEER.
YOU HAVE THE RIGHT TO ASK.

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

The petition must have room for the signature of each petition signer as well as his or her printed name, residence address, and city or unincorporated community name. Signature spaces must be consecutively numbered commencing with the number 1 for each petition section. A minimum one-inch space shall be left at the top of each page and after each name for use by the county elections official. (Elections Code §§ 100, 9013.)

Pursuant to the California Supreme Court's decision in Assembly v. Deukmejian (1982) 30 Cal.3d 638, 180 Cal.Rptr. 297, the petition form must direct signers to include their "residence address" rather than "address as registered" or other address. Each section of the petition must also contain the name of the county (or city and county) in which it was circulated. Each section shall be circulated among voters of only one county. See Appendix D for a sample petition.

Step Four – Circulating Petitions and Gathering Signatures

Calendar

Based on the official summary date, the Secretary of State will prepare a calendar of filing deadlines. The Secretary of State will send a copy of the calendar to the proponent(s) and the county elections officials within one business day of receiving the circulating title and summary from the Attorney General's Office. (Elections Code § 9004(c).)

Circulation Period

Proponents are allowed a maximum of 180 days, from the official summary date, to circulate petitions and collect signatures. (Elections Code § 9014.) However, the initiative measure must qualify at least 131 days before the next general election at which it is to be submitted to the voters. (Elections Code § 9016; Cal. Const., art. II, § 8(c).) As a result, proponent(s) may want to shorten the circulation period in order to ensure that the proposed initiative measure qualifies at least 131 days before the next general election.

Required Number of Signatures

In order to qualify for the ballot, the initiative measure must be signed by a specified number of registered voters depending on the type of proposed initiative measure submitted.

Initiative Statute: Petitions proposing initiative statutes must be signed by registered voters. The number of signatures must be equal to at least 5% of the total votes cast for Governor at the last gubernatorial election. (Cal. Const., art. II, § 8(b); Elections Code § 9035.) The total number of signatures required for initiative statutes is 365,880.

Initiative Constitutional Amendment: Petitions proposing initiative constitutional amendments must be signed by registered voters. The number of signatures must be equal to at least 8% of the total votes cast for Governor at the last gubernatorial election. (Cal. Const., art. II, § 8(b); Elections Code § 9035.) The total number of signatures required for such petitions is 585,407.

Once proponents have gathered 25% of the number of signatures required (91,470 for an initiative statute and 146,352 for a constitutional amendment) proponents(s) must immediately certify they have done so under penalty of perjury to the Secretary of State. Upon receipt of the certification, the Secretary of State will provide copies of the proposed initiative measure and the circulating title and summary to the Senate and the Assembly. Each house is required to assign the proposed initiative measure to its appropriate committees and hold joint public hearings, at least 131 days before the date of the election at which the measure is to be voted on. However, the Legislature cannot amend the proposed initiative measure or prevent it from appearing on the ballot. (Senate Bill 1253, Ch. 697, Statutes of 2014; Elections Code § 9034.) See Appendix E for an example of the notice to be sent from the proponent(s) to the Secretary of State.

Referendum

Pursuant to article II, section 9, of the California Constitution, the referendum is the power of the electors to approve or reject statutes enacted by the Legislature. However, the referendum cannot be used on urgency statutes, statutes calling elections, or statutes providing for tax levies or appropriations for current expenses of the State.

Referenda on the ballot are not as common as initiative measures. The signature requirements are the same for a referendum as an initiative statute; however, the referendum circulation calendar, verification, timing, and form of the petition have different requirements. For example on the timing, a proponent only has 90 days from the date of the enactment of a bill (or in the case of a redistricting map, the date a final map is certified to the Secretary of State) to request and receive a circulating title and summary from the Attorney General (Elections Code § 9006(a) allows 10 days for the preparation of the circulating title and summary), print petitions, gather the required number of valid signatures, and file the petitions with the county elections officials.

For more referendum information, you can go to the following page entitled, Referendum **www.sos.ca.gov/elections/ballot-measures/referenda.htm (/elections/ballot-measures/referendum/)**.

Declaration of Circulator

A circulator of a state initiative must be 18 years of age or older. Each section shall have attached thereto a declaration by the circulator of the petition setting forth, in the circulator's own hand, the following (Elections Code §§ 102,104, 9022):

- The printed name of the circulator.
- The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.
- The dates between which all the signatures affixed to the petition were obtained.

Each declaration submitted pursuant to this section shall also set forth the following (Elections Code §§ 104, 9022):

- That the circulator is 18 years of age or older.
- That the circulator circulated the petition section and witnessed the appended signatures being written.
- That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
- That the declaration is true and correct under penalty of perjury under the laws of the State of California.

The declaration must be signed under penalty of perjury. The declaration does not need to be sworn before a notary public or other officer authorized to administer oaths, but must include the circulator's signature, date, and place of signing preceding the circulator's signature. (Elections Code §§ 104, 9022; Code Civ. Proc. § 2015.5.)

Petition Circulators

The proponent(s) of a proposed initiative measure are required to ensure that any person, company, or other organization who solicits signatures to qualify the initiative measure, whether they are paid or volunteer, receives instruction on the requirements and prohibitions imposed by state law with respect to the circulation of petitions and the gathering of signatures. Such instructions must emphasize the prohibition of the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot. (Elections Code § 9607.)

The petition may be circulated by a number of individuals carrying separate, identical parts of the petition called sections. Each petition circulator who obtains signatures must complete the attached declaration to the petition. Preprinted dates or generalized dates, other than the particular range of dates during which the petition section was actually circulated, are not allowed. (Assembly v. Deukmejian (1982) 30 Cal.3d 638, 180 Cal.Rptr. 297.)

Prior to allowing a person to circulate an initiative petition for signatures, **the person, company official, or other organizational officer who is in charge of signature gathering shall execute and submit** to the proponent(s) a signed statement that reads as follows (Elections Code § 9609):

> I,_____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.
>
> _____
> (Signature of Official)
>
> Dated this _____ day of
> _____, 20_____

This statement shall be kept on file by the proponent(s) for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials. (Elections Code § 9609 (b).)

In addition, **all paid circulators shall execute and submit** to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement, prior to soliciting signatures on an initiative petition, that reads as follows (Elections Code § 9610):

> I,_____, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.
>
> _____
> (Signature of Circulator)
>
> Dated this _____ day of
> _____, 20_____

This statement shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for not less than eight months after the certification of the results of the election for which the petition qualified or, if the measure did not qualify, eight months after the deadline for submission of the petition to elections officials. Unpaid circulators do not need to provide a signed statement. (Elections Code §§ 9610 (b), (c).)

Petition Signatures

Only persons who are registered, qualified voters at the time of signing are entitled to sign the petition. A person can only sign a petition that is being circulated in his or her county of registration. If a petition circulator is a registered voter, he or she may sign the petition he or she is circulating. (Elections Code §§ 105, 9020, 9021.) Each signer must personally place on the petition his or her signature, printed name, residence address (or physical description of the location if there is no street address), and the name of the incorporated city or unincorporated community. (Elections Code § 100.) None of the above may be preprinted on the petition. Each signer may sign an initiative petition only once. (Elections Code § 18612.)

Withdrawal of Signatures

Any voter who has signed an initiative petition may withdraw his or her name by filing a written request for the withdrawal with the appropriate county elections official prior to the date the petition is filed by the proponent(s). (Elections Code §§ 103, 9602.)

Withdrawal of Petitions

The proponent(s) of an initiative may withdraw petitions at any time before the initiative qualifies for the ballot on the 131st day before the general statewide election. (Senate Bill 1253, Ch. 697, Statutes of 2014; Elections Code §§ 9033, 9604.)

Criminal Penalties

The Elections Code imposes certain criminal penalties for abuses related to the circulation of initiative petitions. It prohibits circulators from misrepresenting the purpose or contents of the petition to potential petition signers, intentionally making a false statement in response to a voter's inquiry as to whether the circulator is a paid signature gatherer or a volunteer, and from refusing to allow prospective signers to read the proposed initiative measure or petition or Attorney General's summary. (Elections Code §§ 18600 – 18602.) No person may offer or give payment or anything of value to another in exchange for signing an initiative petition. (Elections Code § 18603.) The code also makes circulators, signers, and others criminally liable for signing or soliciting to sign false, forged, fictitious, or ineligible signatures and names. (Elections Code §§ 18610-18614.) The law provides criminal penalties for persons, including public officials, who make false affidavits (for example, the circulator's declaration is an affidavit), returns, or certifications concerning any proposed initiative measure. (Elections Code §§ 18660, 18661.)

Circulating petitions within 100 feet of a polling place or an elections official's office on election day is prohibited. (Elections Code § 18370(a).) The law prohibits any person from soliciting or obtaining money or anything of value to aid in unlawfully stopping circulation or the filing of a proposed initiative measure or for withdrawing a proposed initiative measure after filing it with an elections official. (Senate Bill 1253, Ch. 697, Statutes of 2014; Elections Code §§ 18620-18622.) It also prohibits any person from stealing petitions and from threatening petition circulators or circulators' relatives with the intent to dissuade them from circulating the petition (Elections Code §§ 18630, 18631). Any person who is paid by the proponent(s) to obtain signatures on any initiative petition is subject to severe penalties for failing to surrender the petition to the proponent(s) for filing. (Elections Code § 18640.)

It should be noted that the petition or list of signatures may be used for no purpose other than the qualification of the initiative measure. (Elections Code § 18650.) This requirement prohibits using the names and addresses on petition sections for a mailing list for fundraising or other purposes

Step Five – Turning in Signatures

Once the requisite number of signatures has been collected, the petition is filed with the appropriate county elections official(s). Petitions may be submitted in sections; however, all the sections submitted in a single county must be filed at the same time and must contain signatures of registered voters in that particular county. Once filed, petitions may not be amended except by order of a court of competent jurisdiction. (Elections Code § 9030.)

To prevent unauthorized petitions from circulating, and unauthorized persons from filing petitions, only the proponent(s) of a proposed initiative measure, and persons authorized in writing by one or more of the proponents, may file initiative petitions. Any other petitions submitted will be disregarded by the county elections official of the county (or city and county) in which it was circulated. (Elections Code §§ 9032, 18671.)

Recommendations

In previous years, some proponents have experienced problems in submitting initiative petitions by the statutory deadline to qualify the initiative measure for a particular election. The proponent(s) are encouraged to begin the process as early as possible to ensure that all deadlines are met. The following points, previously mentioned in this guide, should be emphasized:

- In addition to statutory deadlines, allowances must be made for transmittal of information since many of the time limitations begin when the proposed initiative measure is received by the office and not when sent. Therefore, transmittal time could add several days to the process.
- The Legislative Analyst and the Department of Finance are allowed a total of 50 days from the date of receipt by the Attorney General of the proposed initiative measure in order to prepare a fiscal estimate or opinion.
- The Attorney General is then allowed 15 days after receipt of the fiscal estimate or opinion prepared by the Legislative Analyst and the Department of Finance to transmit a copy of the circulating title and summary.
- Proponent(s) have a maximum of 180 days from the official summary date to file the completed and signed petition sections with the appropriate county elections officials.
- An eligible initiative measure will be qualified by the Secretary of State on the 131st day prior to the next statewide general election unless the proposed initiative measure is withdrawn by the proponent(s).
- Please see Appendix A – Suggested Deadlines to Qualify Initiatives, for a better idea of the timelines involved in qualifying an initiative for a specific statewide general election.

Chapter II - Verification of Signatures

Raw Count

Within eight working days (excluding weekends and holidays) after the filing of the petition, the county elections officials will determine the total number of signatures on the petition sections submitted in their county and report the total to the Secretary of State. If the Secretary of State determines that the raw count of signatures on petitions submitted throughout the state lacks 100 percent of the signatures required, the Secretary of State shall notify the proponent(s) and the county elections officials of the failure of the proposed initiative measure, and no further action will be taken on that petition. If the raw count equals 100 percent or more of the total number of signatures needed to qualify the initiative measure, the Secretary of State will immediately notify the county elections officials that a random sample will be necessary. (Elections Code § 9030(b), (c).)

Random Sample

If a random sample is necessary, within 30 working days of receipt of the Secretary of State's random sample notification, the county elections officials will verify the validity of the signatures filed with their office using a random sampling technique of verification. (Cal. Admin. Code § 20521.) The elections official is required to verify 500 signatures or three percent of the number of signatures filed in their county, whichever is greater. Counties receiving less than 500 petition signatures are required to verify all the signatures filed in their office. (Elections Code § 9030(d).)

Upon completion of a random sample, the county elections officials will immediately certify to the Secretary of State the number of valid signatures appearing on the petitions in their counties. The Secretary of State then applies a formula to determine the statewide total of valid signatures. (Elections Code § 9030; Cal. Admin. Code §§ 20530-20532, 20540.)

Under 95 Percent

If the total number of valid signatures is **less than 95 percent** of the number of signatures required to qualify the initiative measure, the proposed initiative measure will fail to qualify for the ballot. The Secretary of State will generate a failure notice and mail a copy to the proponent(s) and county elections officials. (Elections Code § 9030(f).)

Over 110 Percent

If the number of valid signatures is **greater than 110 percent** of the required number of signatures, the Secretary of State will be able to certify that the initiative measure is qualified 131 days before the next general statewide election. (Elections Code §§ 9030(g), 9033.) Once the required number of signatures has been validated by county elections officials, making the proposed initiative measure eligible for qualification, the Secretary of State will immediately notify the proponents and county elections officials that signature verification be terminated. (Elections Code § 9033 (a).)

Between 95 Percent and 110 Percent

If the result of the random sample indicates that the number of valid signatures represents between **95 percent and 110 percent** 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.*"

Full Check

If a full check is necessary, within 30 working days of receipt of the Secretary of State's full check notification, the county elections officials determine the total number of qualified signatures and transmit this information to the Secretary of State. (Elections Code § 9031.) If the proposed initiative measure fails to reach the required amount of valid signatures, the initiative will fail to qualify for the ballot, and the Secretary of State must so notify the proponent(s) and county elections officials. (Elections Code § 9031.) If it is determined that the proposed initiative measure has the required amount of valid signatures, it is eligible for the next statewide general election ballot.

Chapter III - Qualification

Qualifying for the Ballot: Eligible vs. Qualified

Eligible for the Ballot

The proposed initiative measure is eligible for the ballot on the date the Secretary of State receives certificates from one or more of the county elections officials showing the petition has been signed by the requisite number of voters. (Elections Code § 9033(a).)

Once the proposed initiative measure is eligible for the ballot, the Secretary of State will notify the proponent(s) and each county elections official that the signature requirement has been met and signature verification can be terminated. (Elections Code § 9033(a).)

Proponents may withdraw the proposed initiative measure at any time prior to its qualification for the ballot on the 131st day before the next statewide general election.

Qualified for the Ballot

Once the petition signatures have been verified and the initiative is eligible for the ballot, the Secretary of State will issue a certificate of qualification 131 days before the statewide general election certifying that the initiative measure, as of that date, is qualified for the ballot. (Senate Bill 1253, Ch. 697, Statutes of 2014; Elections Code § 9033.)

Chapter IV - Additional Information

Initiative Effective Date if Approved by Voters

An initiative measure approved by a majority vote takes effect the day after the election, unless the initiative measure provides otherwise. (Cal. Const., art. II, § 10(a).) If the provisions of two or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. (Cal. Const., art. II, § 10(b).) The Legislature may amend or repeal an initiative statute by another statute; however, any proposed statute becomes effective only when approved by the voters, unless the initiative statute permits amendment or repeal without voter approval. (Cal. Const., art. II, § 10(c).)

Preservation of Signatures

The county elections officials must preserve initiative petitions until eight months after the certification of the results of the election for which the initiative measure qualified or attempted to qualify for placement on the ballot. The petitions may then be destroyed unless legal action or a government investigation regarding the petitions is pending. (Elections Code § 17200.) As a general rule, initiative petitions, once filed with the county elections officials, are not public records and are not open to the general public for inspection. (Government Code § 6253.5.)

Chapter V - Political Reform Act, Forming Committees and Reporting Requirements

Recipient Committees

Any person or combination of persons is considered to be a "recipient committee" if contributions totaling $1,000 or more have been received in a calendar year. (Government Code § 82013(a).) A recipient committee becomes "qualified" and must file the original Statement of Organization (Form 410) with the Secretary of State's Political Reform Division within ten days of reaching the $1,000 threshold. (Government Code § 84101(a).) In addition, recipient committees must also file a copy of the Statement of Organization with the local filing officer, if any, with whom it is required to file the originals of its campaign reports.

Qualified recipient committees are subject to a $50 annual fee, payable within 15 days of filing the Statement of Organization (Form 410). After paying the initial fee, the committee must pay the fee, thereafter, on or before January 15 of each year, in every year that the committee remains active until the committee terminates. (Government Code § 84101.5.)

Use of Measure Committee Funds

Persons or committees receiving money for promoting or defeating an initiative, referendum, or recall petition, or any measure that has qualified for the ballot, must hold the money in trust and may spend the money only for the purpose for which it was entrusted to them. (Elections Code § 18680.)

Campaign Disclosure Form 460

The Recipient Committee Campaign Disclosure Statement (Form 460) is the proper disclosure form for use by all ballot measure committees in disclosing most of their financial activities.

Measure Committee Reporting Duties

Committees formed or existing primarily to support or oppose the qualification, passage, or defeat of a ballot measure and proponent(s) of a state ballot measure who control a committee formed to support the qualification of a measure must file semi-annual statements, pre-election statements, quarterly ballot measure statements, and 24-hour online reports of contributions totaling $1,000 or more, as well as 10-business-day reports of contributions totaling $5,000 or more, when required.

(For further reference, the Fair Political Practices Commission publishes online filing schedules specific to each election cycle and specific to each type of committee at **www.fppc.ca.gov (http://www.fppc.ca.gov)** under the heading "**Campaign Rules, Forms & Manuals**".)

Semi-annual Statements

Committees must file semi-annual statements for each half of every year, regardless of the amount of contributions or level of activity. The closing dates for reporting activity on such semi-annual statements are June 30 (with the report due July 31) and December 31 (with the report due January 31). (Government Code § 84200(a).)

Note: All state filers whose cumulative receipts or expenditures total $25,000 or more are subject to electronic filing requirements. The period for calculating whether the committee has reached the cumulative $25,000 electronic filing threshold began on 1/1/2000. For a committee that is subject to this title after 1/1/2000, the beginning date for calculating cumulative totals is the date that the committee is first subject to this title.

Pre-election Statements

Two pre-election statements must be filed during the six-month period prior to the election at which the measure will appear on the ballot. Reporting periods correspond to activity occurring from the ending date of the last reporting period (usually a semi-annual report) through 45 days before an election (with the report due 40 days before the election), and activity occurring from the ending date of the last reporting period (usually the first pre-election report) through 17 days before the election (with reports due 12 days before the election). (Government Code §§ 84200.5, 84200.7, 84200.8.)

Quarterly Ballot Measure Statements

Committees primarily formed to support the qualification, passage, or defeat of a ballot measure are required to file quarterly ballot measure statements before the election. However, quarterly statements are not required during any semi-annual period in which the committee is already required to file pre-election statements. Following the election, such committees that do not terminate are only required to file semi-annual statements, unless they make contributions or expenditures to qualify, support, or oppose other ballot measures, in which case they would have an ongoing duty to file quarterly statements. (Government Code § 84202.3.)

10-Business-Day and 24-hour Reports

There are two types of expedited contribution reports that must be filed. Both must be filed electronically only – even if the filer has not reached the $25,000 threshold of activity requiring electronic filing of other (quarterly and semi-annual) reports. No paper copy of these electronic reports must be filed.

Each report is triggered by a distinct threshold of total contributions ($5,000 or $1,000) given during a distinct period of time (before or during a 90-day period before or on Election Day), and each has a distinct deadline for filing the report (10 business days, or 24 hours).

The first type of expedited contribution report (Form 497) must be filed within 10 business days of the date on which a committee receives contributions totaling $5,000 or more from a single source at any time during the year, unless the contribution or contributions are received during the 90 days before or on the Election Day when the measure appears on the ballot. During the 90-day period before or on Election Day, the second type of expedited reporting is required. (Government Code § 85309(d).)

The second type of expedited contribution report (also using the Form 497) must be filed by the next business day of the date on which a committee makes or receives contributions totaling $1,000 or more from a single source 90 days before or on Election Day, unless the contribution is received on the Friday or weekend day before Election Day, in which case it must be reported within 24 hours of the date on which a committee receives the contribution. (Government Code § 84203.)

Paid Spokesperson Reports

Committees are required to file Paid Spokesperson reports (Form 511) within 10 days of making payments to individuals to appear in advertisements that support or oppose the qualification, passage or defeat of a ballot measure, if the individual is paid $5,000 or more to appear in the ad, or the individual is paid any amount of money to appear in an ad that states or suggests the individual is employed in an occupation that requires licensure, certification, or other specialized training as a prerequisite to be employed in the occupation represented in the ad. (Government Code § 84511.)

Termination Requirements

The Statement of Organization (Form 410) is used to terminate recipient committees. The original and one copy must be filed with the Secretary of State's Political Reform Division. In addition, a copy of the Form 410 must be filed with each filing officer who received a copy of the committee's last campaign statement as contained in Cal. Admin. Code § 18404(c). The committee is also required to file a final, terminating campaign disclosure statement (Form 460).

For more information contact:

Secretary of State
Political Reform Division
1500 11th Street, Fourth Floor, Room #495
Sacramento, CA 95814
Public Counter: (916) 653-6224
Campaign Desk: (916) 653-7043 or (916) 653-8063
Fax: (916) 653-5045
Website: **www.sos.ca.gov (http://www.sos.ca.gov)**

Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814
Technical Assistance: (916) 322-5660
Toll-Free Helpline: 1-866-275-3772
Fax: (916) 322-3711
Website: **www.fppc.ca.gov (http://www.fppc.ca.gov)**

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.

Appendix B - Further Contact Information

SECRETARY OF STATE
Alex Padilla, Secretary of State
1500 11th Street
Sacramento, CA 95814
Elections Division: (916) 657-2166
Political Reform Division: (916) 653-6224
www.sos.ca.gov (http://www.sos.ca.gov/)

FAIR POLITICAL PRACTICES COMMISSION
Fair Political Practices Commission (FPPC)
P.O. Box 807
Sacramento, CA 95814
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www.fppc.ca.gov (http://www.fppc.ca.gov/)

LEGISLATIVE COUNSEL
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www.legislativecounsel.ca.gov (http://www.legislativecounsel.ca.gov/)

LEGISLATIVE ANALYST
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ATTORNEY GENERAL
Kamala D. Harris, Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 445-4752
oag.ca.gov (http://oag.ca.gov/)

Appendix C - County Elections Officials (/elections/voting-resources/new-voters/county-elections-offices/)

Appendix D - Sample Petition (PDF) (http://elections.cdn.sos.ca.gov/ballot-measures/pdf/initiative-guide-sample-petition.pdf)

Appendix E - 25% Signature Threshold Certification

Sample of 25% Signature Threshold Certification (PDF) (http://elections.cdn.sos.ca.gov/ballot-measures/pdf/appendix-e-sample.pdf)

EXHIBIT C

DAN WALTERS FEBRUARY 25, 2016 3:43 PM

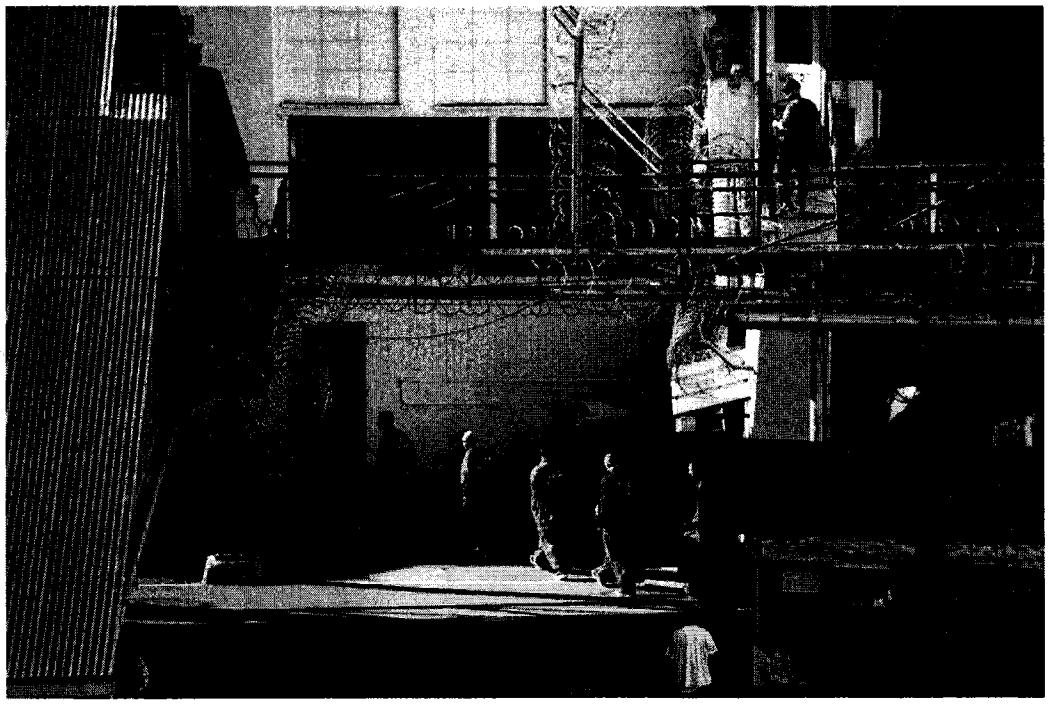
Dan Walters: Brown's end run on sentencing initiative stumbles

HIGHLIGHTS

Governor's sentencing measure hits legal roadblock

He caused it by delaying submission of initiative

Were he to prevail, system would be distorted even more



BY DAN WALTERS
dwalters@sacbee.com

Jerry Brown may be fuming that a Superior Court judge has blocked, at least temporarily, his ballot measure to overhaul criminal sentencing laws.

If he wants someone to blame, he should look in the mirror.

The governor tried to short-circuit the process that initiative measures must endure to get to the signature-gathering phase.

Rather than merely submitting his measure to the attorney general for what's called "title and summary," he persuaded the sponsor of another measure dealing with juvenile justice to incorporate his much more extensive proposal as an amendment.

Since the juvenile justice measure was on the verge of clearance, the tactic offered Brown three advantages, to wit:

- It would avoid having a competing criminal justice measure on the ballot that might confuse or alienate voters.
- It would speed up processing, allowing Brown to begin the signature-gathering phase more quickly, no small matter given the large number of measures already in the field.
- It would essentially eliminate the usual 65-day waiting period that allows interested parties to review and comment on the title and summary, whose wording is often critical to passage or failure.

However, district attorneys who say Brown's measure would hamstring prosecutions and endanger the public challenged the governor's work-around tactic, and Sacramento Superior Court Judge Shellyanne W.L. Chang ruled this week that Attorney General Kamala Harris "abused her discretion" and should not have accepted it as an amendment.

"The theme and purpose of the original initiative was reform of the juvenile justice system," Chang declared. "The amendment deals with, primarily, reform of the adult justice system."

Brown should, prosecutors' attorney Tom Hiltachk said after the ruling, "stand in line like everybody else."

Yes, he should.

Brown could have written his measure, submitted it to Harris and gone through the process like everyone else, but he either didn't want to devote the time necessary or was being tricky to avoid a battle over the title and summary.

Brown's aides are saying that if Chang's ruling stands, he'd be forced to start over and wouldn't have enough time to place the measure on the November ballot. That may or may not be true, but again, it was Brown's choice to delay while sponsors of dozens of other measures were following the law.

Brown and his allies are appealing Chang's ruling, and it's conceivable they would win, even though her conclusion about the nature of his measure is absolutely on point.

Were Brown to win on appeal, it would satisfy him and help his ambitions to leave a legacy, but it would cause major damage to an initiative system that's already been badly distorted.

It would encourage others to adopt similar hide-the-pea tactics on future measures, very much like the sneaky practice of Capitol politicians called "gut-and-amend" that is also aimed at shutting out the public.

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MORE DAN WALTERS

COMMENTS

EXHIBIT D

Office of Governor Edmund G. Brown Jr.

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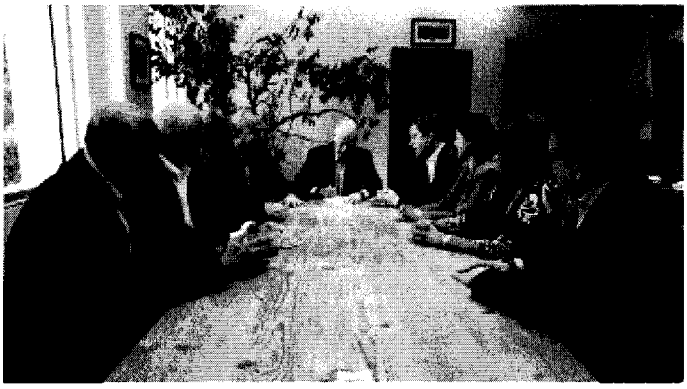
Governor Brown Signs Ballot Reform Measure



9-27-2014

SACRAMENTO - Governor Edmund G. Brown Jr. today joined Senate President pro Tem Darrell Steinberg, Think Long Committee for California chair Nicolas Berggruen and others to sign legislation - SB 1253 - to increase public participation in the initiative process and provide better information to voters on ballot measures.

"California's century-old initiative process is a hallmark of our electoral system and today we're taking an important step to modernize and strengthen direct democracy," said Governor Brown.

The legislation, authored by Senate pro Tem Steinberg, requires the Secretary of State's office to post on the Internet and regularly update the top 10 donors of the committees in support and opposition of an initiative. The measure introduces a 30-day public review period at the beginning of the initiative process. Proponents can amend the initiative in response to public input during that review period. The signature gathering period would also be extended to 180 days instead of the current 150 days.

"SB 1253 improves the initiative process in a simple but profound way. By allowing an initiative proponent to withdraw their measure closer to the election, it allows for the possibility of reasoned compromise and a better result between the people's elected government and the people's initiative alternative," said Senate President pro Tem Darrell Steinberg.

"SB 1253 strengthens the integrity of the initiative process, which is uniquely influential in California political life. It introduces transparency of funding while also enabling broader debate and public review

so that measures can be modified before they go to the ballot, avoiding unintended consequences," said Think Long Committee for California chair Nicolas Berggruen.

"California's initiative process leaves little room for alternatives and compromises in making public policy. SB 1253 changes the timetable in a way that allows the Legislature to engage with proponents and find ways to implement legislative solutions. We look forward to participating in the new process and encouraging Californians to do so," said president of the League of Women Voters of California Helen Hutchison.

"Common Cause is pleased to stand with Governor Brown and a broad coalition of organizations to support SB 1253. SB 1253 will give voters the chance to see what initiatives are about early in the process, address flaws if there are problems with the language, and get easy access to information about who is backing the initiatives. SB 1253 modernizes the initiative process to put voters back in driver's seat," said California Common Cause executive director Kathay Feng.

"Too often, ballot measures are confusing and poorly written, but there is no chance for initiative backers to make even the most routine changes. This legislation makes common-sense improvements that will help voters understand what their votes mean and enable them to make informed decisions," said former Chief Justice of the California Supreme Court and Think Long Committee member Ronald George.

Governor Brown signed SB 1253 in his office today, joined by a number of the bill's supporters (pictured left to right,) including: Think Long Committee for California senior adviser Nathan Gardels, California Forward chair Lenny Mendonca, League of Women Voters of California senior director for program Trudy Schafer, Senate President pro Tem Darrell Steinberg, Think Long Committee for California chair Nicolas Berggruen, California Common Cause executive director Kathay Feng, California NAACP president Alice Huffman and Former Assembly Speaker and Think Long Committee for California member Robert Hertzberg.

For full text of the bill, visit: http://leginfo.legislature.ca.gov.

Photo Credit: Kelly Huston, Office of the Governor. For a high resolution copy of this photo, please contact Danella Debel, Office of the Governor at Danella.Debel@gov.ca.gov.

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