

Date of Hearing: April 15, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 535 (Grove) – As Introduced February 23, 2015

SUBJECT: Initiatives: ballot title and summary.

SUMMARY: Makes changes to the ballot title and summary requirements for statewide measures. Specifically, **this bill:**

- 1) Requires the ballot title and summary for a statewide measure, which is prepared by the Attorney General (AG), to satisfy all of the following:
 - a) Be written in clear and concise terms, understandable to the average voter, and in an objective and nonpartisan manner, avoiding the use of technical terms whenever possible;
 - b) If the measure imposes or increases a tax or fee, the type and amount of the tax or fee must be described;
 - c) If the measure repeals existing law in a substantial manner, that fact shall be included; and,
 - d) If the measure is contingent on the passage or defeat of another measure or statute, that fact shall be included.
- 2) Requires the Legislature to provide the AG with sufficient funding for administrative and other support relating to preparation of the ballot title and summary for initiative measures, including, but not limited to, plain-language specialists.

EXISTING LAW:

- 1) Defines a ballot title and summary to mean the summary of the chief purpose and points, including the fiscal impact summary, of any measure that appears in the state ballot pamphlet.
- 2) Requires the AG to give a true and impartial statement of the purpose of the measure in such language that the ballot title and summary shall neither be an argument nor be likely to create prejudice, for or against that proposed measure.
- 3) Defines a circulating title and summary to mean the text that is required to be placed on the petition for signatures that is either of the following:
 - a) The summary of the chief purpose and points of a proposed initiative measure that affects the Constitution or laws of the state, and the fiscal impact of the proposed initiative measure; or,
 - b) The summary of the chief purpose and points of a referendum measure that affects a law or laws of the state.

FISCAL EFFECT: Unknown

COMMENTS:1) **Purpose of the Bill:** According to the author:

The initiative process is an important part of California's political framework and a fundamental right of its citizens. Currently, state law requires the Attorney General to provide a ballot title and summary for each statewide ballot measure that is neutral and not likely to create prejudice for or against a measure. However, many titles and summaries have been criticized in recent years for not being impartial, for failing to provide relevant information, and for simply not being comprehensible to the average voter.

In order for Californians to properly consider the pros and cons of initiative measures, it is imperative that they have access to a title and summary that is fair and impartial, understandable, and that provides relevant information such as the amount of a proposed tax.

AB 535 simply adopts language that was originally included in last year's initiative reform measure, SB 1253, to require the Attorney General to write a ballot title and summary in a manner that is objective and nonpartisan, clear and concise, understandable to the average voter, and that informs voters of the type and amount of a proposed tax or fee.

2) **New Title and Summary Criteria:** When the AG is drafting the title and summary for a proposed initiative measure, current law requires the AG to give a true and impartial statement of the purpose of the measure in such language that the ballot title and summary shall neither be an argument nor be likely to create prejudice, for or against that proposed measure. This bill adds substantial new requirements on how a ballot title and summary must be drafted. This bill requires the ballot title and summary to satisfy all of the following criteria: 1) be written in clear and concise terms, understandable to the average voter, and in an objective and nonpartisan manner, avoiding the use of technical terms whenever possible, 2) include the type and amount of the tax and fee if the measure imposes or increases a tax or fee, 3) indicate whether the measure repeals existing law in any substantial manner, and 4) indicate whether the measure is contingent on the passage or defeat of another measure or statute. According to the author's statement, this bill aims to result in ballot titles and summaries that are neutral and not likely to create prejudice for or against a measure as well provide relevant information and be understandable to the average voter. Notwithstanding the author's goal, these new criteria are ambiguous and subjective, and consequently could result in more litigation surrounding the ballot titles and summaries created by the AG.3) **Arguments in Support:** In support, the Howard Jarvis Taxpayers Association, writes:

AB 535 requires the Attorney General, when crafting ballot titles and summaries for statewide initiative measures, implement a number of common-sense reforms to ensure that voters better understand what they are voting on...

The genesis of this proposal stems from a year-long initiative reform working group featuring a wide range of stakeholders including business organizations, good governance groups, labor and taxpayer organizations. While some reforms were implemented via SB

1253 (Steinberg) critically needed reforms including the requirement for "plain-language" ballot material were blocked at the behest of the Attorney General.

4) **Arguments in Opposition:** In opposition, the California Federation of Teachers, writes:

Current law already requires the Attorney General to provide a true and impartial statement or purpose of the measure. The title and summary of ballot measures are inherently legal titles and descriptions, which require the expertise and legal training possessed by the Attorney General.

The title and summary prepared with these provisional skills reflect the appropriate language and information required to accurately reflect the impact of the proposed law. To add extra-judicial requirements will limit the Attorney General's ability to provide the most legally-accurate title and summary possible. By forcing the Attorney General to use language that might not otherwise be used, will diminish the accuracy of ballot titles and summary. Additionally, this will open the ballot measure process to more litigation and raise the cost of the direct democratic process of California.

5) **Previous Legislation:** SB 1253 (Steinberg), Chapter 697, Statutes of 2014, which made significant changes to the initiative process, as specified, contained similar provisions which were removed.

REGISTERED SUPPORT / OPPOSITION:

Support

California Taxpayers Association
Howard Jarvis Taxpayers Association

Opposition

California Federation of Teachers
California School Employees Association
California State Council of the Service Employees International Union

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