Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2220 (Gatto) – As Introduced: February 24, 2012

SUBJECT: Elections: statewide ballot pamphlet.

SUMMARY: Requires a specified disclaimer to be included in the summary statement prepared by the Legislative Analyst (Analyst) for a proposed initiative measure that provides new revenues for new or existing programs, as specified. Specifically, this bill:

1) Requires the Analyst to include the following paragraph in the summary statement of a qualified initiative that appears in the state ballot pamphlet if the Analyst determines that the measure will provide for new revenues to fund new or existing programs:

   "Unless changed by a future measure approved by the voters, this initiative would forever dedicate the revenue it generates to programs identified in the initiative by its backers, and these revenues would not be available to meet other responsibilities of the state not identified in the initiative."

2) Provides that the paragraph described above shall not be printed in the summary statement for any initiative measure that provides that the new revenues are to be deposited without restriction into the General Fund (GF) commencing at a future date after its enactment or if the initiative measure allows the Legislature to reallocate the increase in revenues.

EXISTING LAW requires the state ballot pamphlet to contain a section located near the front that provides a concise summary of the general meaning and effect of each state measure and requires the summary statements to be prepared by the Analyst.

FISCAL EFFECT: Unknown

COMMENTS:

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

   > AB 2220 would require that voters receive more information on the impact of specific ballot initiatives. The structural budget deficit has resulted in significant pressure on vital public services. The size of the structural deficit has been impacted, in part, by voter-approved initiatives which both expend State resources and which raise revenues and commit them to specific programs.
   >
   > This measure would not impact the public's ability to qualify or approve an initiative which raises revenue and commits it to specific programs. It would simply require that the Legislative Analyst's Office provide information about the initiative's commitment of resources to a specific purpose. Specifically, it would include in the statewide voter pamphlet the following disclaimer if a proposed initiative creates a new funding source that does not provide for an eventual

direction of those funds to the State's General Fund or provisions that allow the Legislature to reallocate the monies:

"Unless changed by a future measure approved by the voters, this initiative would forever dedicate the revenue it generates to programs identified in the initiative by its backers, and these revenues would not be available to meet other responsibilities of the state not identified in the initiative."

It would direct the Secretary of State to include in the statewide voter pamphlet the same disclaimer in the analysis of an initiative measure.

All too often, voters are unaware of the intersection between the initiative process and the budget process. There is a lack of understanding that revenue streams created via the initiative process are essentially put into silos, untouchable by the legislature during the budget process. Unless these initiatives say otherwise, the monies go into special funds that cannot be used for anything but programs specified in the initiative. This especially comes to light during tough budget times such as now when the public wonders why the legislature simply cannot shift certain monies from special funds into the state's general fund to help fund. This simple disclosure would help make clear to voters the possible outcomes and exactly what is, or isn't, possible with revenue streams created by an initiative.

It is in the best interest of voters to know, up-front, about the conditions of their approval for such initiatives. This simple disclosure would help clarify to voters, without comment on the merits of the initiative itself, the disposition of revenue streams created by an initiative without provisions which allow a recommitment to other priorities during times when priorities may change.

2) Initiative Spending: Since the implementation of the initiative process in 1911, there have been a number of approved measures that have required a certain portion of GF spending to be dedicated to a specific purpose. These measures restrict the Legislature's ability to alter the relative shares of GF spending provided to program areas in any given year. For instance, Proposition 98 of 1988, provided for a minimum level of total spending (GF and local property taxes combined) on K-14 education in any given year. Proposition 98 accounts for over 40% of annual state GF spending. Proposition 49 of 2002, requires that the state spend a certain amount on after-school programs, which exceeded $540 million in fiscal year 2010-11. This bill will inform voters of initiative measures that generate revenue and earmark that revenue for a specific purpose.

3) Other States: Of the 24 states with an initiative process, the mechanism in which they regulate the fiscal impact of proposed measures differ. Some states freely allow the electorate to propose measures without regard to cost, while other states impose various restrictions. According to the National Conference of State Legislatures (NCSL), as of 2006, 11 states have restrictions on the use of the initiative with regards to appropriations and funding mechanisms.

- Alaska: No dedication of revenue or making or repealing appropriations.

- Arizona: If an initiative requires a reduction in government revenue or a reallocation from currently funded programs, the initiative text must identify the program(s) whose funding must be cut or eliminated to implement the initiative. If the identified revenue source provided fails in any fiscal year to fund the entire mandated expenditure for that fiscal year, the legislature may reduce the expenditure of state revenues for that purpose in that fiscal year to the amount of funding supplied by the identified revenue source.

- Florida: Measures that propose a tax or fee not in place in November 1994 requires 2/3rds vote to pass.

- Maine: Expeditures in an amount in excess of available and unappropriated state funds remain inoperative until 45 days after the regular legislative session, unless the measure provides for raising new revenues adequate for its operation.

- Massachusetts: May not be used to make a specific appropriation from the treasury. However, if such a law, approved by the people, is not repealed, the legislature must raise, by taxation or otherwise, and appropriate such money as may be necessary to carry such law into effect.

- Mississippi: Sponsor must identify in the text of the initiative the amount and source of revenue required to implement the initiative. Initiatives requiring a reduction in government revenue, or a relocation from currently funded programs, must identify the program(s) whose funding must be reduced or eliminated to implement the initiative.

- Missouri: May not appropriate money other than new revenues created and provided for by the initiative.

- Montana: May not appropriate money.

- Nebraska: No measure may interfere with the legislature's ability to direct taxation of necessary revenues for the state and its governmental subdivisions.

- Nevada: No appropriations or other expenditures of money unless such statute or amendment also imposes a sufficient tax or otherwise constitutionally provides for raising the necessary revenue.

- North Dakota: No appropriations for the support and maintenance of state departments and institutions.

- Wyoming: No dedication of revenues or making or repealing appropriations.

NCSL further comments that "initiative measures that mandate expenditures of large amounts of public revenue without including a new dedicated revenue source (such as taxes or fees) can make it difficult for the legislature to continue to fund existing state services and programs. In addition, initiatives that increase or create new taxes to fund new or existing programs negatively affect the legislature's ability to impose reasonable taxes to fund necessary programs for citizens."

This bill, however, does not impose a restriction on measures that generate revenue and dedicate that revenue to a specific purpose, rather this bill will inform voters of such a measure so that they can be fully aware of its fiscal impact.

4) Previous Legislation: AB 65 (Gatto) of 2011, which is similar to this bill, was vetoed by Governor Brown. In his veto message, the Governor wrote, "I am sympathetic to the author's concerns that voters should understand more clearly the consequences of initiatives that dedicate revenue to a specific purpose. But the rote disclaimer mandated by this bill won't provide voters greater clarity."

   AB 1021 (Gordon and Feuer) of 2011 would have required additional information to be included in petitions and the ballot pamphlet for initiatives that result in costs over $1 million, but do not provide additional funding. AB 1021 was vetoed by Governor Brown. In his veto message, the Governor wrote, "the additional disclosure required by this bill will add words, but not greater understanding about the financial impact of a voter initiative."

   ACA 6 (Gatto and Feuer) of 2011 failed adoption on the Assembly floor. ACA 6 would have prohibited an initiative measure that would result in an increase in state or local government costs exceeding $5 million from being submitted to the electors or from having any effect, unless the Analyst determined that the initiative measure provided for additional revenues in an amount that met or exceeded the net increase in costs.

5) Political Reform Act of 1974: California voters passed an initiative, Proposition 9, in 1974 that created the Fair Political Practices Commission and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. That initiative is commonly known as the Political Reform Act (PRA). Amendments to the PRA that are not submitted to the voters must further the purposes of the initiative and require a two-thirds vote of both houses of the Legislature, unless the amendments are to specified provisions to add information to the ballot pamphlet. This bill would require additional information to be included in the ballot pamphlet, and therefore requires a majority vote.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094