

Date of Hearing: July 3, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 636 (Stern) – As Amended May 17, 2019

**SENATE VOTE:** 31-5

**SUBJECT:** Elections: ballot label.

**SUMMARY:** Requires the ballot label for a statewide ballot measure to include a listing of the signers of the ballot arguments printed in the state voter information guide that support and oppose the measure, as specified. Specifically, **this bill:**

- 1) Requires the ballot label for a statewide ballot measure to include the following:
  - a) Under the heading “Supporters:” a listing of the names of the signers of the ballot argument printed in the state voter information guide supporting the measure. Requires the list of supporters to be only the names, titles, or the organizations of the signers of the ballot argument supporting the measure or the rebuttal arguments to the argument opposing the measure and prohibits it from exceeding 15 words.
  - b) Under the heading “Opponents:” a listing of the names of the signers of the ballot argument printed in the state voter information guide opposing the measure. Requires the list of opponents to be only the names, titles, or the organizations of the signers of the ballot argument opposing the measure or the rebuttal arguments to the argument supporting the measure and prohibits it from exceeding 15 words.
- 2) Requires the supporters of the measure to provide to the Secretary of State (SOS) the list of supporters when submitting the rebuttal arguments to the argument opposing the measure. Requires the opponents of the measure to provide to the SOS the list of opponents when submitting the rebuttal arguments to the argument supporting the measure.
- 3) Requires the SOS, within one week after receiving the lists of supporters and opponents, to provide to county elections officials the ballot label, consisting of the condensed ballot title and summary followed by the list of supporters and opponents for each state ballot measure.
- 4) Makes clarifying and corresponding technical changes.
- 5) Makes the following findings and declarations:
  - a) In addition to a ballot measure’s title, summary, and fiscal analysis, the identity of those who support and oppose a ballot measure provides voters with extremely important information that helps voters better evaluate and understand the value of the measure and to make more informed decisions on how to vote.
  - b) Including the names of the signers of arguments for and against a measure on the measure’s ballot label serves as a useful condensed summary of those arguments in the state voter information guide in the same way that including the condensed title,

summary, and fiscal analysis of the ballot measure serves as a useful condensed summary of the Legislative Analyst's full analysis in the state voter information guide.

**EXISTING LAW:**

- 1) Defines a ballot label to mean the portion of the ballot containing the names of the candidates or a statement of a measure.
- 2) Requires the ballot label for statewide measures to contain no more than 75 words and to be the condensed version of the ballot title and summary including the fiscal impact summary prepared pursuant to existing law.
- 3) Requires the Attorney General (AG) to prepare a ballot title and summary and ballot label for each statewide measure submitted to the voters by a date sufficient to meet the state voter information guide public display deadlines.
- 4) Requires the AG, in providing the ballot title and summary, 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 the proposed measure.
- 5) Permits any voter or group of voters to prepare and file with the SOS an argument for or against any measure for which arguments have not been prepared or filed by the official proponent, or the measure's author in the case of a legislative ballot measure.
- 6) Prohibits the SOS from accepting a ballot argument unless it is accompanied by all of the following below and prohibits a person, who signs an argument for or against a measure or a rebuttal to an argument for or against a measure, to identify themselves in reference to that signature as a candidate for any office:
  - a) The name, business or home address, and telephone number of each person submitting the argument.
  - b) If the argument is submitted on behalf of an organization, the name, business address, and telephone number of the organization and of at least two of its principal officers.
  - c) The name, business or home address, and telephone number of a contact person for each individual or organization submitting the argument.
  - d) If the argument is signed by anyone other than the proponent or legislative author, the name and official title of the person or persons authorized by the proponent to sign the argument.
  - e) A signed form statement pursuant to existing law.
- 7) Requires the SOS, if more than one argument for, or more than one argument against, a measure is filed within the time prescribed, to select one of the arguments for printing in the state voter information guide. Requires to SOS, in selecting the argument, to give preference and priority in the order named to the arguments of the following:

- a) In the case of a measure submitted by the Legislature, Members of the Legislature.
  - b) In the case of an initiative or referendum measure, the proponent of the measure.
  - c) Bona fide associations of citizens.
  - d) Individual voters.
- 8) Provides that no more than three signatures shall appear with an argument printed in the state voter information guide. Provides that in case an argument is signed by more than three persons the signatures of the first three shall be printed.
  - 9) Requires state initiative and referendum measures to appear on the ballot only at a general election, as specified, or at a statewide special election.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, by requiring ballots to include additional, specified information, this bill could increase costs associated with their printing and mailing. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The amount is unknown, but potentially in excess of \$50,000 per election cycle. The SOS's costs to implement the bill have yet to be determined.

**COMMENTS:**

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

Voters want to know who is in support or opposition to ballot measures. Putting on the ballot who supports and who opposes a ballot measure would provide voters with extremely important information that helps them better evaluate and understand the value of the measure and to make more informed voting decisions.

Voters can find key supporters and opponents of state ballot measures in the ballot pamphlet by looking at who signed the official arguments in favor and against them; but many voters don't have the time to read through the whole ballot pamphlet, in part, because it is usually very long and dense. The 2018 General Election ballot pamphlet was 96 pages long.

SB 636 will give voters the key information of the three official ballot argument signers in favor and against a state ballot measure where they can't miss it and when it matters most: on the ballot itself. Moreover, by putting supporters and opponents front and center, SB 636 further erodes the elusive power of dark money in California politics...

On average, listing three supporters and three opponents will add only about 25 words to each 75 word ballot label for state ballot measures, resulting in little, if any, increase in the overall length of ballots (depending on formatting) while providing voters with the crucial information they need to make better decisions

at the time they most need it.

- 2) **Ballot Form:** Current law requires a ballot to comply with a variety of laws that dictate its content. For example, a ballot must contain the title of each office, the names of all qualified candidates, as specified, ballot designations, as specified, titles and summaries of measures submitted to voters, and instructions to voters, among other things. Moreover, current law requires a ballot to be printed in a certain form, as specified. Once all of these requirements are met, there is limited space left on the ballot to accommodate further requirements. Consequently, it is common practice to include other important election information in the voter information guide that is sent to all registered voters, as specified.
- 3) **Longer Ballots:** As mentioned above, this bill requires the names of persons and organizations supporting and opposing a state ballot measure to be added onto the ballot. If this bill is signed into law, it could significantly increase the length of the ballot. This is especially true for statewide general election ballots, since state initiative and referendum measures do not appear on primary election ballots. The following are a list of the most recent statewide general elections and the number of state ballot measures that appeared on those ballots:
  - 2018 statewide November general election ballot contained 12 state ballot measures
  - 2016 statewide November general election ballot contained 17 state ballot measures
  - 2014 statewide November general election ballot contained 6 state ballot measures
  - 2012 statewide November general election ballot contained 11 state ballot measures
  - 2010 statewide November general election ballot contained 9 state ballot measures

Moreover many county elections officials are required to print ballots in multiple languages under state and federal law. In order to accomplish this, many counties print multilingual ballots. For example, the Sacramento County ballot is printed in English, Spanish and Chinese.

- 4) **Only State Ballot Measures:** As mentioned above, the provisions of this bill only apply to state ballot measures. The committee may wish to consider whether it is prudent public policy to have different ballot labeling requirements for different ballot measures.
- 5) **Arguments in Support:** In support, the sponsors and various coalition members write:

The ballot label for each state ballot measure that voters see on the ballot currently provides a limited selection of key information voters need: its title, a very brief objective summary, and a very brief summary of its fiscal analysis, all in a maximum of 75 words.

But one other key piece of information that voters most want to know about each ballot measure is missing from the ballot label: support and opposition. Putting on the ballot who supports and who opposes a ballot measure would provide voters with extremely important information that helps them better evaluate and understand the value of the measure and to make a more informed voting decision.

Although some well-funded ballot measure campaigns are able to spend enough

to inform voters of the most important supporters or opponents (from their point of view), most campaigns don't have the financial resources to directly communicate that information to California's nearly 20 million registered voters in a way they'll remember when they vote. This is another unfair advantage enjoyed by ballot measure campaigns supported by wealthy interests.

6) **Arguments in Opposition:** In opposition, the California Association of Clerks and Election Officials writes:

**Cost:** Space is precious on a ballot card. State law requires elections officials to use specific minimum font sizes on ballot cards and provides very little latitude when laying out ballot contests. Adding even one line of text can sometimes require the use of additional ballot cards. By conservative estimates, this bill appears to add eight lines of additional text to the average ballot label – one line for each argument signer's name and title, one line for the word "Supporters" and one line for the word "Opponents." If this assumption is accurate, this additional wording would have consumed 96 lines of ballot text for the twelve propositions on the November 2018 Statewide General Election ballot, or the equivalent of more than one full column on an 8 ½" x 11" three column vote by mail ballot card. Additional ballot cards add to the cost of printing, proofing, and mailing official vote by mail ballots, the cost of returning postage paid vote by mail ballots, and the cost of printing and mailing county voter information guides, all of which must be borne by the counties since state elections are not reimbursable. Additionally, ballot materials translated into California's mandated languages take up more room than the English versions, therefore making the need for additional ballot cards even more likely.

**Politicizing the Ballot:** We are also concerned that this bill politicizes the ballot which is intended to be neutral territory. The signers of arguments are not necessarily the proponents or opponents of the propositions. Often, the signers are chosen for a political purpose in order to help sway voters to vote a particular way. We believe that the proper forum for this information already exists in the state Voter Information Guide.

**Voter Confusion:** Furthermore, since this bill is limited to statewide propositions and does not extend to county, municipal, or district measures, we believe this disparate treatment will lead to voter confusion. Voters do not see much of a difference between state propositions and local measures and they appear directly next to one another for ballot layout purposes. Elections officials will be contacted to answer who are the supporters and opponents for the local contests, diverting resources away from performing election duties.

**Statewide Uniformity:** Finally, we have questions to the format and layout of these names and titles. The bill seems to imply that the names and titles appear as a list under the appropriate header but does not specify this. If the intent is to have consistency in presentation across the state, clarity might be necessary.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Clean Money Campaign (sponsor)  
California League of Conservation Voters  
Consumer Watchdog  
Courage Campaign  
Endangered Habitats League  
GMO Free California  
Indivisible CA: StateStrong  
Maplight  
Money Out Voters In  
New Progressive Alliance  
People Demanding Action  
RootsAction  
Voices for Progress

**Opposition**

California Association of Clerks and Election Officials

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