

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1851 (Allen) – As Amended: April 10, 2012

SUBJECT: County initiative petitions.

SUMMARY: Requires county elections officials to allow for public access to the proponent's initiative measure materials filed with the elections officials, as specified. Specifically, this bill:

- 1) Requires a county elections official, from the time an initiative petition is filed to until the day after the county elections official determines that the initiative petition does not contain the minimum number of signatures required, the day after the election at which the initiative measure is put before voters, or the day after the proposed ordinance is adopted by the board of supervisors after being submitted to the board of supervisors in accordance with existing law, to do the following:
  - a) Keep on file at his or her office materials the initiative measure proponents filed with the county elections official as required law; and,
  - b) Furnish copies of the materials described above to any person upon request.
- 2) Permits the county elections official to charge a fee to a person obtaining copies of materials pursuant to this bill. Prohibits the fee from exceeding the actual cost incurred by the county elections official in providing the copies.

EXISTING LAW:

- 1) Requires proponents of an initiative, before circulating any initiative petition in a county, to file with the county elections official a notice of intention to do so. Requires the notice to include the names and business or residence addresses of at least one, but no more than five, proponents of the petition, and be accompanied by the written text of the initiative and request that a ballot title and summary be prepared.
- 2) Permits the notice of intention to include a printed statement, which does not exceed 500 words, stating the reason for the proposed petition and provides the notice of intent to be in form as specified.
- 3) Requires a person filing a notice of intent with the county elections official to pay a fee established by the board of supervisors, not to exceed \$200, that can be refunded to the filer if, within one year of the date of filing the notice of intent, the county elections official certifies the sufficiency of the petition.
- 4) Requires the county counsel, within 15 days of an initiative being filed with the county elections official, to provide and return to the county elections official the title and summary of the proposed measure.

- 5) Requires the county elections official to furnish a copy of the ballot title and summary of the proposed measure to the proponents. Requires the proponents, prior to circulation of the petition, to publish the notice of intention and the ballot title and summary of the proposed summary, in a newspaper of general circulation published in the county and file proof of publication with the county elections official.
- 6) Permits proponents to begin circulating the petitions among voters of the county for signatures by any registered voter of the county after publication of the title and summary prepared by the county counsel. Requires each petition to bear a copy of the notice of intention and the title and summary.
- 7) Permits any elector of the county to seek a writ of mandate requiring the ballot title and summary to be amended. Requires a peremptory writ of mandate be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the format requirements as specified.
- 8) Requires initiative proponents to return the petitions for filing within 180 days from the date of receipt of the title and summary.

FISCAL EFFECT: Unknown. State-mandated local program; contains a self-financing disclaimer.

COMMENTS:

- 1) Purpose of the bill: According to the author:

Current law for qualifying an initiative for the ballot requires the proponent of a measure to file an intent to file notification with the local jurisdiction along with a \$200 refundable fee and the text of the measure. A title and summary is prepared and furnished to the proponents of the measure and, after providing proper notice, allows the circulation of the petition for signature gathering. The proponent then has 180 days to obtain the requisite number of signatures; otherwise the measure fails to qualify for the ballot.

Once the local elections jurisdiction furnishes the title and summary to the proponents of a measure they are not required to retain the materials on file as a matter of public record. In a democracy, where decision making is predicated on an informed electorate, it is unconscionable to not provide voters with access to as much information as possible. AB 1851 would require county elections officials to make available the title and summary, text of the language, and intent to file documentation for the duration of the 180 day circulation phase. The individual requesting the materials may be charged a fee not to exceed the cost of the production of these materials.

- 2) Increased Transparency: On the state level, proponents of a proposed statewide initiative or referendum measure submit a draft of the measure to the Attorney General (AG) with a written request that a circulating title and summary of the chief purpose and points of the initiative measure be prepared and pay a \$200 fee. Upon receipt of the fee and request, the AG prepares a circulating title and summary, assigns the proposed measure a unique numeric identifier, and furnishes a copy of the official title and summary to the proponents and the

Secretary of State (SOS). In practice, the AG posts on her website a copy of the proponent's written request for the circulating title and summary as well as the official title and summary prepared.

Similarly, in practice the SOS maintains a list on her website of the proposed initiative and referendum measures that have qualified, initiative and referendum measures cleared for circulation, initiative and referendum measures pending signature verification, initiative and referendum measures that failed to qualify, and initiative and referendum measures pending at the AG's office.

As stated above in the author's statement, the intent of the bill is to provide voters with access to as much information as possible so they are able to make informed decisions when voting. With the goal in mind to increase transparency and provide more access, it should be noted that neither this bill nor existing law prohibits county elections officials from voluntarily posting these documents on their websites.

- 3) What About Municipal or District Initiatives? Similar to existing requirements regarding proposed county initiatives, proposed municipal and district initiatives are required, before circulating a proposed initiative petition in a city or district, to publish a notice of intention accompanied by a statement stating the reasons for the proposed measure in 500 words or less. Additionally, proposed municipal initiatives are filed with their respective elections official with a request for a title and summary to be prepared by the city attorney. This step does not occur for proposed district initiatives. Also similar to proposed county initiatives, before circulation of the petitions, the notice of intention and the title and summary of a proposed municipal initiative or the statement of purpose for a proposed district initiative is required to be published once in a newspaper of general circulation within the city or district, if no newspaper of general circulation, then published once in a newspaper circulated within the city or within the county in which the district is located, and posted in three public places within the city or district. Moreover, existing law does not require a municipal or district elections official to keep on file, nor provide public access to, the proposed initiative measure materials that were filed. The committee may wish to consider whether the provisions of this bill should also apply to proposed municipal and district initiatives.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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