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California Ballot Initiatives

March Fong Eu
California Secretary of State

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CALIFORNIA BALLOT INITIATIVES



Prepared by March Fong Eu
Secretary of State

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PREFACE

We have prepared this brief summary of the statewide initiative procedure as required by Elections Code Section 3515.1 to provide an understanding of the requirements for preparing and qualifying statewide initiatives.

Numbers in parentheses refer to the California Elections Code authority for the statement preceding them, except as otherwise specifically noted.

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**CALIFORNIA BALLOT INITIATIVES
PROCEDURES AND REQUIREMENTS
FOR
PREPARING AND QUALIFYING
A STATEWIDE INITIATIVE MEASURE**

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I. INTRODUCTION

81-6-362

The initiative is the power of the electors to propose statutes and amendments to the constitution. (Cal. Const. II, 8(a)) Generally, any matter that is a proper subject of legislation can become an initiative; however, no initiative containing more than one subject area may be submitted to the voters or take effect. (Cal. Const. II, 8(d) and 12) No initiative petition may be filed with the intent to defeat the initiative measure embraced in the petition, though nothing prohibits a person from filing in good faith in initiative measure which conflicts with a measure already on file. (§ 29790)

An initiative is placed on the ballot after its proponent, or sponsor, has successfully met a series of deadlines which are described in this booklet. Some of the filing deadlines mentioned in the summary are indefinite. However, upon receipt of an official summary from the Attorney General's office, the Secretary of State will prepare an individualized calendar for filing dates and deadlines for securing signatures for the qualification of the measure. The Secretary of State distributes this calendar to the proponents and to each of the 58 county clerks or registrars of voters so they may be aware of their responsibilities.

II. PRELIMINARY PROCEDURE

The first step in the process of qualifying an initiative is to write the text of the proposed law. The measure's proponents may obtain assistance from the Legislative Counsel in drafting the measure in some cases. To do so, the proponents must present the idea for the law to the Legislative Counsel, and the request for a draft of the proposed law must be signed by 25 or more electors. The Legislative Counsel will then draft the proposed law if he determines that there is a reasonable probability that the measure will eventually be submitted to the voters. (Government Code § 10243)

The draft of the initiative must then be submitted to the Attorney General. (Cal. Const. II, 10(d)) A written request for a title and summary of the measure and \$200 must accompany the draft. (§ 3502) The Attorney General prefers bank checks, money orders, cashiers checks, or cash rather than personal checks. The \$200 is placed in a trust fund in the Office of the State Treasurer and is refunded if the measure qualifies for the ballot within two years after the summary has been prepared. If the initiative fails to qualify within that period the money is put into the General Fund. (§ 3503)

Upon receipt of the fee and request, the Attorney General prepares a title and summary which will be the official summary of the measure. (§ 3502) The Attorney General provides the Secretary of State with a copy of this title and summary within 15 days of the final receipt of the measure, unless the Attorney General determines the measure requires a fiscal estimate. In that case, 25 days are allowed for preparation of the fiscal analysis by the Joint Legislative Budget Committee and the Department of Finance, in addition to the 15 days required to prepare the summary. (§ 3504) The fiscal analysis is then included in the official summary.

When the official summary is complete, the Attorney General sends the summary to the proponents, the Senate, Assembly, and the Secretary of State. The Legislature may conduct public hearings on the initiative, but cannot amend it. (§ 3506)

The "Official Summary Date" is the date the summary is sent to the proponents by the Attorney General, and is the date the Secretary of State uses to calculate calendar deadlines supplied to the proponent, county clerks and registrars of voters. (§ 3513)

III. PETITIONS

The law specifies the format for the petition. The petition may be circulated by many different people carrying separate, identical parts of the petition called "sections". It is important to follow the prescribed format because the county clerks and registrars of voters will not accept nonconforming petitions for filing. (§ 3511) Each section of the petition must contain the full title and text of the measure (§ 3515) and each page on which signatures are to appear must contain a copy of the Attorney General's summary in roman boldface type not smaller than 12-point. (§ 3507)

The heading of each section of a proposed initiative petition shall be in substantially the following form:

**Initiative Measure to Be Submitted
Directly to the Voters**

**[This heading must be printed in not less than 12-point
boldface type. (§ 3508)]**

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

[Here set forth the title and summary prepared by the Attorney

General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear. (§ 3501)

To The Honorable Secretary of State of California

We, the undersigned, registered, qualified voter 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 the general election or otherwise provided by law. The proposed constitutional (or statutory) amendments read as follows: (§ 3501)

[full title and text of the measure]

The petition must have room for the signatures of the petition signers and their printed names, residence addresses and name of community, and a blank space at least one inch wide after each name for the county clerk's use. (§§ 41, 3507, 3516) Additionally, each section of the petition must 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 (§ 3517) and may be circulated only by registered voters. (§ 42) See Exhibit "A" for a sample petition section.

IV. CIRCULATION DATES

No petition may be circulated prior to the official summary date. (§ 3513) The completed and signed petition must be filed with the county clerk or registrar of voters not later than 150 days from the official summary date; no petition may be accepted for filing after that date. (§ 3513) Each initiative will be placed on the next statewide general or special election ballot which occurs 131 days after the initiative qualifies. (§ 3514; Cal. Const. II, 8(c))

V. PETITION SIGNATURES

Petitions supporting initiative *statutes* must be signed by registered voters whose number equals 5 percent of the votes cast for all candidates

who ran for Governor at the last gubernatorial election. (Cal. Const. II, 8(b)) The total number of signatures required for initiative statutes which qualify before the November 1982 gubernatorial election will be 346,119.

Petitions supporting initiative *constitutional amendments* must be signed by registered voters whose number equals 8 percent of the votes cast for all candidates who ran for Governor at the last gubernatorial election. (Cal. Const. II, 8(b)) The total number of signatures required for such petitions which qualify before the November 1982 gubernatorial election will be 553,790.

Only persons who are registered, qualified voters at the time of signing are entitled to sign the petition. (§§ 41, 3516) Since the petition circulators must be registered voters, they may sign the petitions they are circulating. (§§ 3517, 42, 53)

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 incorporated city or unincorporated community. (§ 3516) Each signer may sign an initiative petition only once. (§ 29732)

Any voter who has signed an initiative petition may withdraw the name by filing a written request for the withdrawal with the county clerk or registrar of voters of the county in which the voter is registered before the petition is filed by the proponents. (§ 5352)

Each person circulating petitions and obtaining signatures on them must attach an affidavit (which is a document executed under oath or under penalty of perjury) to the petition stating: The qualifications of the solicitor, that is, where he or she is a registered voter, including voting address; that all signatures affixed to the section were made in his or her presence; that to the best of his or her belief, each signature is the genuine signature of the person whose name it purports to be; the dates between which all signatures were obtained. (§§ 44, 3519)

The affidavit must either be taken under oath, or signed under penalty of perjury. If it is taken under oath, it will be verified free of charge by any officer authorized to administer oaths. (§ 3519) If it is signed under penalty of perjury, it need not be sworn before a notary or other officer authorized to administer oaths, but must include the circulator's signature and date and county of signing. (C.C.P. § 2015.5)

Circulating petitions is prohibited within 100 feet of polling places on election day. (§ 29470(a))

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 (§ 29720) and from refusing to allow prospective signers to read the measure or petition or Attorney General's summary. (§§ 29721, 29722) The code also makes circulators, signers, and others criminally liable for signing or soliciting to sign false, forged, fictitious or ineligible signatures and names. (§§ 29730-29734)

The law also prohibits any person from soliciting or obtaining money to aid in preventing an initiative from qualifying (§§ 29740-29742) and prohibits any person from stealing petitions and from threatening petition circulators or circulators relatives intending to dissuade them from circulating the petition. (§§ 29750-29751) Any person working for an initiative's proponents who is paid to obtain signatures on any initiative petition faces stiff maximum penalties for refusing to surrender the petition to proponents for filing. (§ 29760)

It should be noted that petition signatures may be used for no purpose other than the qualification of the initiative. (§ 29770)

VI. FILING PETITIONS

Petitions may be submitted in sections (§ 3515), but all the sections submitted in a single county must be filed at the same time. (§ 3520) To prevent unauthorized petition circulators from circulating and filing petitions, only the proponents of an initiative measure, and persons authorized in *writing* by the proponents, may file initiative petitions. (§§ 3522, 29791) Any other petitions submitted will be disregarded by the clerk.

Each section of the petition shall be filed with the clerk or registrar of voters of the county (or city and county) in which it was circulated. (§ 3520)

VII. VERIFICATION OF THE PETITION BY ELECTION OFFICIALS

Within five days (excluding weekends and holidays) after filing the petition, the clerk or registrar of voters determines the total number of signatures on the petitions submitted in that county, and reports the total to the Secretary of State. (§ 3520)

If the Secretary of State discovers that the petitions submitted from throughout the state lack 100 percent of the signatures required, the Secretary of State shall immediately notify the county clerks and registrars of voters and no further action is taken on the initiative. (§ 3520)

INITIATIVE MEASURE TO BE SUBMITTED TO THE VOTERS

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

[ATTORNEY GENERAL TITLE AND SUMMARY]

All signers of this petition must be registered in _____ County

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 the general election or otherwise provided by law. The proposed constitutional (or statutory) amendments (full title and text of the measure) read as follows:

[Insert full title and text of measure]

This column for official use only

	YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME
	YOUR ADDRESS AS REGISTERED TO VOTE	CITY ZIP
	YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME
	YOUR ADDRESS AS REGISTERED TO VOTE	CITY ZIP
	YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME

YOUR SIGNATURE	
YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME
YOUR ADDRESS AS REGISTERED TO VOTE	CITY ZIP

DECLARATION OF CIRCULATOR

(to be completed after above signatures have been obtained)

I am registered to vote in the County (or City and County) of _____. Each of the signatures to this petition was signed in my presence. Each signature of this petition is, to the best of my knowledge and belief, the genuine signature of the person whose name it purports to be. All signatures to this document were obtained between _____ and _____. I certify (or declare) under penalty of perjury that the foregoing is true and correct.*

Signature of Petition Circulator	Registered Address	City (in full)	Zip	Date
----------------------------------	--------------------	----------------	-----	------

Print Name

(EXHIBIT A)

[*The affidavit may be sworn under oath instead of certified under penalty of perjury.]

[NOTE: It is recommended that a space approximately 1/2 inch wide be left along the left margin opposite the signatures, as shown, for the clerks' use in verifying signatures.]

But, if upon receipt of notifications from the counties, it is apparent that the total number of filed signatures is 100 percent or more of the total number needed to qualify the measure, the Secretary of State reports this fact to the county clerks and registrars of voters who then verify the validity of the signatures within 15 days. A random sampling technique of verification is used by clerks and registrars in checking petitions where 500 or more names have been signed on a petition received by that county. (§ 3520) If, for example, 87 percent of the sample signatures are found to be valid, then 87 percent of the entire number of signatures are deemed to be valid.

Upon completion of signature verification, the clerk or registrar immediately certifies to the Secretary of State the number of valid signatures appearing on the petition in his or her county. (§ 3520) The Secretary of State adds together the signature counts received from each county to determine a statewide total. If the total number of valid signatures is less than 90 percent of the number of signatures required to qualify the petition, the petition will be deemed unqualified without further verification, and the Secretary of State so notifies the proponents, county clerks and registrars of voters. (§ 3520) If the number of valid signatures is greater than 110 percent of the required number, the petition is considered qualified without further verification.

However, if the result of this process indicates that the number of valid signatures is between 90 percent and 110 percent of the qualified voters required to qualify the petition, the Secretary of State directs the county clerks and registrars of voters to examine *every* signature on the petition. (§ 3521) Clerks and registrars have 30 days to determine the total number of qualified signatures and transmit this information to the Secretary of the State. (§ 3521)

The petition is deemed filed and qualified with the Secretary of State on the date that the Secretary of State receives certificates from the county clerks or registrars of voters showing the petition has been signed by the requisite number of voters. (§ 3523)

The Secretary of State transmits a certificate to each county if the measure qualifies. If the measure fails to qualify, the Secretary of State must so notify the proponents and county officials (§ 3523)

The clerks and registrars must preserve the initiative petitions until eight months after the certification of the results of the election for which the petition qualified or attempted to qualify for placement on the ballot; the petitions are destroyed after that unless legal action relating to the petitions is pending. (§ 3512)

However, initiative petitions once filed with the clerks and registrars are not public records and are not open to the public generally for inspection. (Government Code § 6253.5)

VIII. APPROVAL

An initiative measure approved by a majority vote takes effect the day after the election unless the measure provides otherwise. (Cal. Const. II, 10(a)) If provisions of two or more measures approved at the same election conflict, those of the measures receiving the highest affirmative vote prevail. (Cal. Const. II, 10(b))

The legislative may amend or repeal initiative statutes by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval. (Cal. Const. II, 10(c))

IX. POLITICAL REFORM ACT OF 1974 REQUIREMENTS

Proponents of initiative measures have a duty to file campaign statements under the Political Reform Act of 1974. This duty is separate and distinct from duties imposed on political committees.

Proponents of state initiatives must file campaign statements with the Office of the Secretary of State within 35 days after the deadline for filing petitions or the date of notification that the measure qualified or failed to qualify, whichever date is earlier. Committees supporting or opposing the qualification of the measure must file campaign statements within the same 35-day deadline. The closing date for such statements is 28 days after the deadline for filing petitions on the date of notification that the measure has either qualified or failed to qualify, whichever date is earlier. (Government Code § 84204) An individual or group is considered to be a committee if (1) contributions of \$500 or more are received in a calendar year, (2) independent expenditures of \$500 or more are made in a calendar year, or (3) contributions to or expenditures at the behest of candidates or committees totaling \$5,000 or more are made during a calendar year. (Government Code § 82013)

In addition to the required disclosures in conjunction with the qualification process, campaign disclosure statements must be filed by committees opposing and supporting measures on the statewide ballot. The deadlines for filing Campaign Statements in connection with elections held on the State Direct Primary date are: not later than April 30, not later than 12 days prior to the election, and not later than July 31. The closing dates for such statements shall be April 23, 15 days prior to the election, and June 30, respectively. The deadlines in connection with elections held on the State General Election date are: not later than September 30, not later than 12 days prior to the election, and not later

than January 31. The closing dates for such statements shall be September 23, 15 days prior to the election and December 31, respectively. (Government Code § 84201)

This is a brief summary of the filing requirements. More information can be obtained by reading the "Instruction Manual on the Campaign Disclosure Provisions of the Political Reform Act of 1974," the Political Reform Act contained in Title IX of the Government Code, or by contacting the Secretary of State's Political Reform Division and the Technical Assistance and Analysis Division of the Fair Political Practices Commission.

It should be noted that persons receiving money for promoting or opposing an initiative which is to be filed with the Secretary of State or any statewide measure which has qualified for the ballot, hold the money in trust and may only spend the money for the purpose for which it was entrusted to them, as spelled out in the code, or face a possible fine or imprisonment. (§ 29795)

X. ARGUMENTS

The law permits proponents of initiatives and other voters to submit arguments for and against the initiative for inclusion in the ballot pamphlet prepared by the Secretary of State and distributed to all registered voters. (§ 3559-3567)

If proponents of an initiative wish to submit arguments, they must do so no later than 131 days before the election. If they submit no arguments by that time, arguments will be accepted up to 120 days before the election from other voters. The Secretary of State mails copies of arguments submitted in favor of an initiative to those opposed to it, and mails copies of arguments submitted opposing an initiative to proponents, so that each side can write a rebuttal.

Arguments will not be accepted for publication unless accompanied by the name and address of the person or persons submitting them or, if submitted on behalf of an organization, the name and address of the organization and the names and addresses of two of its principal officers. The principal arguments must not exceed 500 words in length and the rebuttals 250 words. Only three signatures will be accepted for publication. When more than one set of arguments for or against an initiative proposed by voters is submitted, the proponents of the measure have priority in having their arguments selected by the Secretary of State for publication, followed in order by bona fide associations of citizens and individual voters.

All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each author of the argument:

The undersigned author(s) of the _____
(primary/rebuttal)
argument _____ ballot proposition
(in favor of/against)
_____ at the _____ election
(name or number) (title of election)
for the _____ to be held on _____
(jurisdiction) (date)
hereby state that such argument is true and correct to the best of
_____ knowledge and belief.
(his/her/their)

Signed _____ Date _____

(§ 5350)

Proponents of arguments submitted to the Secretary of State may withdraw their arguments at any time prior to and including the final date for filing arguments. (§ 5351)

At least 20 days before the state ballot pamphlet containing proposed measures and arguments is sent to the printer, the Secretary of State makes copies of it available for public examination. Any voter may bring a court action in Sacramento to require the ballot pamphlet to be amended, and obtain a court order for amendment when it is proven that the text is false, misleading, or in violation of law, and amending the pamphlet will not substantially interfere with the printing and distribution of the pamphlet. (Government Code § 88006)

WARNING:

In previous years many proponents experienced problems in submitting initiative petitions in time to qualify the measures for a particular election by the legislative deadline, which is 131 days prior to the election. Many proponents were unaware of the great amount of "lead time" required to comply with all deadlines.

If a proponent is seriously interested in circulating an initiative petition, the Secretary of State's Office suggests that the process should begin 377 days prior to the election at which the proponent wishes the measure to be voted upon in order to take advantage of the maximum time allowed to accomplish each step of the initiative process. Since each task has already been described, the following chart should serve as a handy guide to the significant tasks and the number of days required to complete each task.

EXAMPLES:

If a proponent is interested in circulating a petition for the June 3, 1980 primary election, the initiative must be declared sufficient by January 24, 1980. The proponent should begin the process by May 23, 1979 to take advantage of the 377 day "lead time" and to meet the deadline of November 29, 1979 for submission of the petitions to the county clerks and registrars of voters.

If a proponent is interested in sponsoring an initiative for the November 4, 1980 general election, the initiative must be declared sufficient by June 26, 1980. The proponent should begin the process by October 24, 1979 to take advantage of the "lead time" and to meet the deadline of May 1, 1980 for submission of the petitions to the county clerks and registrars of voters.

ADDRESSES:

George Deukmejian
Attorney General
555 Capitol Mall, Suite 350
Sacramento, CA 95814
(916) 445-6004

March Fong Eu
Secretary of State
Elections Division
1230 J Street
Sacramento, CA 95814
(916) 445-0820

March Fong Eu
Secretary of State
Political Reform Division
P.O. Box 1467
Sacramento, CA 95807
(916) 322-4880

Fair Political Practices Com.
Technical Assistance and
Analysis Division
P.O. Box 807
Sacramento, CA 95804
(916) 322-5662

RECOMMENDED INITIATIVE CALENDAR

DAYS BEFORE ELECTION	MAXIMUM TIME ALLOWED	ACTIVITY
377		Request title and summary from Attorney General
352	25 days	Fiscal impact determined by Joint Legislative Budget Committee and Department of Finance
337	15 days	Attorney General prepares title and summary
187	150 days	Circulate petition
Deadline for Submitting Petition		
180	7 days	County Clerks and Registrars of Voters report total signatures to Secretary of State
178	2 days	Secretary of State notifies County Clerks and Registrars of Voters to check sample of signatures
163	15 days	County Clerks and Registrars of Voters report results of the random sampling to the Secretary of State
161	2 days	Secretary of State orders 100% check of signatures (between 90 and 110% of requirement)
131	30 days	County Clerks and Registrars of Voters report results to Secretary of State

It is possible that one or more of these steps may be eliminated or be accomplished in a shorter time. However, to be safe, proponents should allow for the maximum time shown above.

