

Assembly Bill No. 753

Passed the Assembly September 9, 2009

Chief Clerk of the Assembly

Passed the Senate September 4, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 303, 336, 342, 9003, 9004, 9005, 9007, 9008, 9034, 9035, 9050, 9053, 9054, 9063, 13247, and 13282 of, to add Sections 303.5, 9016, 9017, and 9018 to, to repeal Sections 9052, 13280, and 13281 of, and to repeal and add Sections 9001, 9002, 9006, 9009, 9012, 9013, 9014, 9015, and 9051 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 753, Adams. Ballot titles and labels.

Existing law generally requires the Attorney General to provide a ballot title for each measure to be submitted to the voters at a statewide election. The Attorney General is required to prepare a summary of the chief purposes and points of a statewide ballot measure as part of the ballot title and return the measure with the ballot title and summary to the Secretary of State. Upon receipt of the ballot title and summary, the Secretary of State is required to send notification of the filing deadline and the certification deadline to the proponents of the measure and to the county elections official.

This bill would revise the provisions relating to the duties of the Attorney General and Secretary of State regarding state ballot measures and the provisions relating to proponents of a ballot measure. The bill would add and revise related definitions.

This bill would incorporate changes made by AB 894 that would become operative only if both bills are enacted and this bill is enacted after AB 894.

The people of the State of California do enact as follows:

SECTION 1. Section 303 of the Elections Code is amended to read:

303. "Ballot label" means that portion of the ballot containing the names of the candidates or a statement of a measure. For statewide measures, the ballot label shall contain no more than 75 words and shall be a condensed version of the ballot title and summary including the fiscal impact summary prepared pursuant

to Section 9087 of this code and Section 88003 of the Government Code.

SEC. 2. Section 303.5 is added to the Elections Code, to read:

303.5. (a) “Ballot title” is the name of a statewide measure included in the ballot label and the ballot title and summary.

(b) “Ballot title and summary” means the summary of the chief purpose and points including the fiscal impact summary of any measure that appears in the state ballot pamphlet. The ballot title and summary shall include a statement of the measure’s fiscal impact. This summary shall not exceed 100 words, not including the fiscal impact statement.

(c) (1) “Circulating title and summary” means the text that is required to be placed on a petition for signatures that is either one 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.

(B) The summary of the chief purpose and points of a referendum measure that affects a law or laws of the state.

(2) The circulating title and summary shall not exceed 100 words, not including the fiscal impact summary.

SEC. 3. Section 336 of the Elections Code is amended to read:

336. The “official summary date” is the date a circulating title and summary of a proposed initiative measure is delivered or mailed by the Attorney General to the proponents of the proposed measure.

SEC. 4. Section 342 of the Elections Code is amended to read:

342. “Proponent or proponents of an initiative or referendum measure” means, for statewide initiative and referendum measures, the elector or electors who submit the text of a proposed initiative or referendum to the Attorney General with a request that he or she prepare a circulating title and summary of the chief purpose and points of the proposed measure; or for other initiative and referendum measures, the person or persons who publish a notice or intention to circulate petitions, or, where publication is not required, who file petitions with the elections official or legislative body.

SEC. 5. Section 9001 of the Elections Code is repealed.

SEC. 6. Section 9001 is added to the Elections Code, to read:

9001. (a) Prior to the circulation of any initiative or referendum petition for signatures, the text of the proposed measure shall be submitted to the Attorney General with a written request that a circulating title and summary of the chief purpose and points of the proposed measure be prepared. The electors presenting the request shall be known as the “proponents.” The Attorney General shall preserve the written request until after the next general election.

(b) Each and every proponent of any proposed initiative measure shall, at the time of submitting the text of the proposed measure, provide both of the following:

(1) An original signed certification stating that “I, (insert name), declare under penalty of perjury that I am a citizen of the United States, 18 years of age or older, and a resident of (insert county), California.”

(2) Public contact information.

(c) The proponents of any initiative measure, at the time of submitting the text of the proposed measure to the Attorney General, shall pay a fee of two hundred dollars (\$200), which shall be placed in a trust fund in the office of the Treasurer and refunded to the proponents if the measure qualifies for the ballot within two years from the date the summary is furnished to the proponents. If the measure does not qualify within that period, the fee shall be immediately paid into the General Fund of the state.

(d) All referenda and proposed initiative measures must be submitted to the Attorney General’s Initiative Coordinator located in the Sacramento Attorney General’s Office via U.S. Postal Service, alternative mail service, or personal delivery. Only printed documents will be accepted, facsimile or e-mail delivery will not be accepted.

(e) The Attorney General’s office shall not deem a request for a circulating title and summary submitted until all of the requirements of this section are met.

SEC. 7. Section 9002 of the Elections Code is repealed.

SEC. 8. Section 9002 is added to the Elections Code, to read:

9002. (a) The Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the final version of a proposed initiative measure, or, if a fiscal estimate or opinion is to be included, within 15 days after receipt of the fiscal estimate or opinion prepared by the Department

of Finance and the Joint Legislative Budget Committee pursuant to Section 9005. If during the 15-day period the proponents of the proposed initiative measure submit amendments, other than technical, nonsubstantive amendments, to the final version of the measure, the Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the amendments.

(b) The amendment must be submitted with a signed request by all the proponents to prepare a circulating title and summary using the amended language.

(c) The amendment must be submitted to the Attorney General's Initiative Coordinator located in the Sacramento Attorney General's Office via U.S. Postal Service, alternative mail service or personal delivery. Only printed documents will be accepted, facsimile or e-mail delivery will not be accepted.

SEC. 9. Section 9003 of the Elections Code is amended to read:

9003. In the event that the Attorney General is a proponent of a proposed measure, the circulating title and summary of the chief purpose and points of the proposed measure, including an estimate or opinion on the financial impact of the measure, shall be prepared by the Legislative Counsel, and the other duties of the Attorney General specified in this chapter with respect to the circulating title and ballot title and summary and an estimate of the financial effect of the measure shall be performed by the Legislative Counsel.

SEC. 10. Section 9004 of the Elections Code is amended to read:

9004. (a) Upon receipt of the text of a proposed initiative measure, the Attorney General shall prepare a circulating title and summary of the chief purposes and points of the proposed measure. The circulating title and summary shall not exceed a total of 100 words. The Attorney General shall also provide a unique numeric identifier for each proposed initiative measure. The circulating title and summary shall be prepared in the manner provided for the preparation of ballot titles and summaries in Article 5 (commencing with Section 9050), the provisions of which, in regard to the preparation, filing, and settlement of ballot titles and summaries, are hereby made applicable to the circulating title and summary.

(b) The Attorney General shall provide a copy of the circulating title and summary and its unique numeric identifier to the proponents and to the Secretary of State within 15 days after receipt of the fiscal estimate or opinion prepared by the Department of Finance and the Joint Legislative Budget Committee pursuant to Section 9005. The date the copy is delivered or mailed to the proponents is the “official summary date.”

(c) Upon receipt of the circulating title and summary from the Attorney General, the Secretary of State shall, within one business day, notify the proponents and county elections official of each county of the official summary date and provide a copy of the circulating title and summary to each county elections official. This notification shall also include a complete schedule showing the maximum filing deadline, and the certification deadline by the counties to the Secretary of State.

SEC. 11. Section 9005 of the Elections Code is amended to read:

9005. (a) The Attorney General, in preparing a circulating title and summary for a proposed initiative measure, shall include in the circulating title and summary either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government, or an opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

(b) The estimate as required by this section shall be made jointly by the Department of Finance and the Joint Legislative Budget Committee, who shall deliver the estimate to the Attorney General so that he or she may include the estimate in the circulating title and summary prepared by him or her.

(c) The estimate shall be delivered to the Attorney General within 25 working days from the date of receipt of the final version of the proposed initiative measure from the Attorney General, unless in the opinion of both the Department of Finance and the Joint Legislative Budget Committee a reasonable estimate of the net impact of the proposed initiative measure cannot be prepared within the 25-day period. In the latter case, the Department of Finance and the Joint Legislative Budget Committee shall, within the 25-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative measure is adopted.

(d) Any statement of fiscal impact prepared by the Legislative Analyst pursuant to subdivision (b) of Section 12172 of the Government Code may be used by the Department of Finance and the Joint Legislative Budget Committee in the preparation of the fiscal estimate or the opinion.

SEC. 11.5. Section 9005 of the Elections Code is amended to read:

9005. (a) The Attorney General, in preparing a circulating title and summary for a proposed initiative measure, shall, in boldface print, include in the circulating title and summary either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government, or an opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

(b) The estimate as required by this section shall be made jointly by the Department of Finance and the Joint Legislative Budget Committee, who shall deliver the estimate to the Attorney General so that he or she may include the estimate in the circulating title and summary prepared by him or her.

(c) The estimate shall be delivered to the Attorney General within 25 working days from the date of receipt of the final version of the proposed initiative measure from the Attorney General, unless, in the opinion of both the Department of Finance and the Joint Legislative Budget Committee, a reasonable estimate of the net impact of the proposed initiative measure cannot be prepared within the 25-day period. In the latter case, the Department of Finance and the Joint Legislative Budget Committee shall, within the 25-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative measure is adopted.

(d) A statement of fiscal impact prepared by the Legislative Analyst pursuant to subdivision (b) of Section 12172 of the Government Code may be used by the Department of Finance and the Joint Legislative Budget Committee in the preparation of the fiscal estimate or the opinion.

SEC. 12. Section 9006 of the Elections Code is repealed.

SEC. 13. Section 9006 is added to the Elections Code, to read:

9006. (a) Upon receipt of the text of a proposed referendum, the Attorney General shall prepare a circulating title and summary of the chief purpose and points of the proposed statute at issue.

The circulating title and summary shall not exceed a total of 100 words. No fiscal analysis shall be included.

(b) The Attorney General shall provide a copy of the circulating title and summary of the proposed referendum to the proponents and to the Secretary of State within 10 days after receipt of the proposed referendum.

(c) Upon receipt of the circulating title and summary from the Attorney General, the Secretary of State shall, within one business day, notify the proponents and county elections official of each county of the official summary date and provide a copy of the circulating title and summary to each county elections official. This notification shall also include a complete schedule showing the maximum filing deadline, and the certification deadline by the counties to the Secretary of State.

SEC. 14. Section 9007 of the Elections Code is amended to read:

9007. Immediately upon the preparation of the circulating title and summary of a proposed initiative or referendum measure, the Attorney General shall forthwith transmit copies of the text of the measure and the circulating title and summary to the Senate and the Assembly. The appropriate committees of each house may hold public hearings on the subject of the measure. However, nothing in this section shall be construed as authority for the Legislature to alter the measure or prevent it from appearing on the ballot.

SEC. 15. Section 9008 of the Elections Code is amended to read:

9008. Every proposed initiative measure, prior to circulation, shall have placed across the top of the petition in 12-point or larger roman boldface type, all of the following:

(a) The Attorney General's unique numeric identifier placed before the circulating title and summary upon each page where the circulating title and summary is to appear.

(b) The circulating title and summary prepared by the Attorney General upon each page of the petition on which signatures are to appear.

(c) The circulating title and summary prepared by the Attorney General upon each section of the petition preceding the text of the measure.

(d) The circulating title and summary prepared by the Attorney General as required by subdivision (c) shall be preceded by the following statement: “Initiative measure to be submitted directly to the voters.”

SEC. 16. Section 9009 of the Elections Code is repealed.

SEC. 17. Section 9009 is added to the Elections Code, to read:

9009. The heading of an initiative petition shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

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

(Here set forth the unique numeric identifier provided by the Attorney General and circulating title and summary prepared by the Attorney General. Both the Attorney General’s unique numeric identifier and the circulating title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

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

SEC. 18. Section 9012 of the Elections Code is repealed.

SEC. 19. Section 9012 is added to the Elections Code, to read:

9012. Any petition for a proposed initiative measure or referendum may be presented in sections, but each section shall contain a full and correct copy of the circulating title and summary and text of the proposed measure. The text of the proposed measure shall be printed in type not smaller than 8 point.

SEC. 20. Section 9013 of the Elections Code is repealed.

SEC. 21. Section 9013 is added to the Elections Code, to read:

9013. A space at least one inch wide shall be left blank across the top of each page of every initiative and referendum petition

and after the name of each voter who has signed the petition for the use of the county elections official in verifying the petition.

SEC. 22. Section 9014 of the Elections Code is repealed.

SEC. 23. Section 9014 is added to the Elections Code, to read:

9014. A petition for a proposed initiative measure or referendum shall not be circulated for signatures prior to the official summary date. A petition with signatures on a proposed initiative measure shall be filed with the county elections official not later than 150 days from the official summary date, and no county elections official shall accept a petition on the proposed initiative measure after that period. A petition for a proposed referendum measure shall be filed with the county elections officials not later than 90 days from the date the legislative bill was chaptered by the Secretary of State, and a county elections official shall not accept a petition for the proposed referendum after that period.

SEC. 24. Section 9015 of the Elections Code is repealed.

SEC. 25. Section 9015 is added to the Elections Code, to read:

9015. Officers required by law to receive or file in their offices any initiative or referendum petition shall not receive or file any initiative or referendum petition not in conformity with this article.

SEC. 26. Section 9016 is added to the Elections Code, to read:

9016. Notwithstanding any other provision of law, no initiative measure shall be placed on a statewide special election ballot that qualifies less than 131 days before the date of the election.

SEC. 27. Section 9017 is added to the Elections Code, to read:

9017. If, for any reason, any initiative or referendum measure proposed by petition as provided by this article is not submitted to the voters at the next succeeding statewide election, that failure shall not prevent its submission at a succeeding statewide election.

SEC. 28. Section 9018 is added to the Elections Code, to read:

9018. The Secretary of State shall prepare and provide to any person, upon request, a pamphlet describing the procedures and requirements for preparing and circulating a statewide initiative measure and for filing sections of the petition, and describing the procedure used in determining and verifying the number of qualified voters who have signed the petition.

SEC. 29. Section 9034 of the Elections Code is amended to read:

9034. Upon the certification of an initiative measure for the ballot, the Secretary of State shall transmit copies of the initiative

measure, together with the circulating title and summary as prepared by the Attorney General pursuant to Section 9004, to the Senate and the Assembly. Each house shall assign the initiative measure to its appropriate committees. The appropriate committees shall hold joint public hearings on the subject of such measure prior to the date of the election at which the measure is to be voted upon. However, no hearing may be held within 30 days prior to the date of the election.

Nothing in this section shall be construed as authority for the Legislature to alter the initiative measure or prevent it from appearing on the ballot.

SEC. 30. Section 9035 of the Elections Code is amended to read:

9035. An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by registered voters equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the voters for all candidates for Governor at the last gubernatorial election preceding the issuance of the circulating title and summary for the initiative measure by the Attorney General.

SEC. 31. Section 9050 of the Elections Code is amended to read:

9050. After the Secretary of State determines that a measure will appear on the ballot at the next statewide election, the Secretary of State shall promptly transmit a copy of the measure to the Attorney General. The Attorney General shall provide and return to the Secretary of State a ballot title and summary and ballot label for each measure submitted to the voters of the whole state by a date sufficient to meet the ballot pamphlet public display deadlines.

SEC. 32. Section 9051 of the Elections Code is repealed.

SEC. 33. Section 9051 is added to the Elections Code, to read:

9051. (a) (1) The ballot title and summary may differ from the legislative, circulating, or other title and summary of the measure and shall not exceed 100 words, not including the fiscal impact.

(2) The ballot title and summary shall be amended to include a summary of the Legislative Analyst's estimate of the net state and

local government fiscal impact prepared pursuant to Section 9087, and Section 88003 of the Government Code.

(b) The ballot label shall contain no more than 75 words and shall be a condensed version of the ballot title and summary including the financial impact summary prepared pursuant to Section 9087 and Section 88003 of the Government Code.

(c) In providing the ballot title and summary, the Attorney General shall 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.

SEC. 34. Section 9052 of the Elections Code is repealed.

SEC. 35. Section 9053 of the Elections Code is amended to read:

9053. Each measure shall be designated on the ballot by the ballot label certified to the Secretary of State by the Attorney General.

SEC. 36. Section 9054 of the Elections Code is amended to read:

9054. (a) Whenever a city, county, or city and county is required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights Act of 1965 to provide a translation of ballot materials in a language other than English, the Secretary of State shall provide a translation of the ballot title and summary prepared pursuant to Sections 9050 and 9051 and of the ballot label prepared pursuant to Section 13247 in that language to the city, county, or city and county for each state measure submitted to the voters in a statewide election not later than 68 days prior to that election.

(b) When preparing a translation in a language other than English pursuant to subdivision (a), the Secretary of State shall consult with an advisory body consisting of language experts and nonpartisan organizations that advocate on behalf of, or provide services to, individuals that speak that language.

(c) All translations prepared pursuant to this section shall be made available for public examination in the same time and manner as the ballot pamphlet is made available for public examination in accordance with Section 88006 of the Government Code and Section 9092 of this code.

(d) The local elections official shall use that translation of the ballot label on the sample ballot and the official ballot and may not select or contract with another person to provide translations of the same text.

SEC. 37. Section 9063 of the Elections Code is amended to read:

9063. The summary of a measure given in the press release shall be the official circulating title and summary that has been prepared by the Attorney General. The Legislative Counsel Bureau shall prepare the summary on all other measures.

SEC. 38. Section 13247 of the Elections Code is amended to read:

13247. The statement of all measures submitted to the voters shall be abbreviated on the ballot in a ballot label as provided for in Section 9051. The ballot label shall be followed by the words, “Yes” and “No.”

SEC. 39. Section 13280 of the Elections Code is repealed.

SEC. 40. Section 13281 of the Elections Code is repealed.

SEC. 41. Section 13282 of the Elections Code is amended to read:

13282. Whenever the Attorney General prepares a ballot label, the Attorney General shall file a copy of the ballot label with the Secretary of State. The Secretary of State shall make a copy of the ballot label available for public examination prior to the printing of the ballot label on any ballot. The public shall be permitted to examine the ballot label for at least 20 days, and the Secretary of State may consolidate the examination requirement under this section with the public examination requirements set forth in Section 9092. A voter may seek a writ of mandate requiring a ballot label, or portion thereof, to be amended or deleted. The provisions set forth in Section 9092 concerning the issuance of the writ and the nature of the proceedings shall be applicable to this section.

SEC. 42. Section 11.5 of this bill incorporates amendments to Section 9005 of the Elections Code proposed by both this bill and AB 894. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Section 9005 of the Elections Code, and (3) this bill is enacted after AB 894, in which case Section 11 of this bill shall not become operative.

Approved _____, 2009

Governor