

AMENDED IN ASSEMBLY MAY 3, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1968

Introduced by Assembly Member Niello

February 17, 2010

An act to amend Sections 336, 342, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9009, 9034, 9035, 9050, 9051, 9053, 9054, 9063, 9086, ~~13247~~, 13262, 13282, and 18602 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Niello. Elections: ballot titles.

Existing law requires the Attorney General, upon receipt of a draft of a petition for a proposed initiative or referendum, to prepare a title and summary of the proposed measure. Under existing law, the Attorney General is required to determine the effect of a proposed initiative measure on revenues and expenditures of the state or local government. If the Attorney General determines that a proposed measure would affect state or local revenues or expenditures, he or she must include in the title either the estimate of the amount of change in state or local revenues or costs or an opinion as to whether a substantial net change in state or local finances would result if the proposed initiative is adopted. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to prepare jointly the fiscal estimate that is included in the title. *Existing law imposes specified deadlines on the preparation of a title and summary, and a fiscal estimate.*

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state and would require the Legislative

Analyst, instead of the Department of Finance and the Joint Legislative Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure. *The bill would also change the deadlines applicable to the preparation of a title and summary and a fiscal estimate or opinion.*

The bill would make its operation contingent upon the approval by the voters of ACA 20 of the 2009–10 Regular Session.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 336 of the Elections Code is amended to
2 read:

3 336. The “official summary date” is the date a circulating title
4 and summary of a proposed initiative measure is delivered or
5 mailed by the Legislative Analyst to the proponents of the proposed
6 measure.

7 SEC. 2. Section 342 of the Elections Code is amended to read:

8 342. “Proponent or proponents of an initiative or referendum
9 measure” means, for statewide initiative and referendum measures,
10 the elector or electors who submit the text of a proposed initiative
11 or referendum to the Legislative Analyst with a request that he or
12 she prepare a circulating title and summary of the chief purpose
13 and points of the proposed measure; or for other initiative and
14 referendum measures, the person or persons who publish a notice
15 or intention to circulate petitions, or, if publication is not required,
16 who file petitions with the elections official or legislative body.

17 SEC. 3. Section 9001 of the Elections Code is amended to read:

18 9001. (a) Prior to the circulation of an initiative or referendum
19 petition for signatures, the text of the proposed measure shall be
20 submitted to the Legislative Analyst with a written request that a
21 circulating title and summary of the chief purpose and points of
22 the proposed measure be prepared. The electors presenting the
23 request shall be known as the “proponents.” The Legislative
24 Analyst shall preserve the written request until after the next
25 general election.

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

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

5 (2) Public contact information.

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

14 (d) All referenda and proposed initiative measures must be
15 submitted to the Legislative Analyst’s Initiative Coordinator
16 located in the Sacramento Legislative Analyst’s Office via United
17 States Postal Service, alternative mail service, or personal delivery.
18 Only printed documents will be accepted; facsimile or e-mail
19 delivery will not be accepted.

20 (e) The Legislative Analyst’s Office shall not deem a request
21 for a circulating title and summary submitted until all of the
22 requirements of this section are met.

23 SEC. 4. Section 9002 of the Elections Code is amended to read:

24 9002. (a) The Legislative Analyst shall provide a copy of the
25 title and summary to the Secretary of State within ~~15~~ 30 days after
26 receipt of the final version of a proposed initiative measure, ~~or, if~~
27 ~~a fiscal estimate or opinion is to be included, within 15 days after~~
28 ~~receipt of the fiscal estimate or opinion prepared by the Department~~
29 ~~of Finance and the Joint Legislative Budget Committee pursuant~~
30 ~~to Section 9005. If during the 15-day.~~ *If during the 30-day* period
31 the proponents of the proposed initiative measure submit
32 amendments, other than technical, nonsubstantive amendments,
33 to the final version of the measure, the Legislative Analyst shall
34 provide a copy of the title and summary to the Secretary of State
35 within ~~15~~ 30 days after receipt of the amendments.

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

39 (c) The amendment must be submitted to the Legislative
40 Analyst’s Initiative Coordinator located in the Sacramento

1 Legislative Analyst's Office via United States Postal Service,
2 alternative mail service, or personal delivery. Only printed
3 documents will be accepted; facsimile or e-mail delivery will not
4 be accepted.

5 SEC. 5. Section 9003 of the Elections Code is amended to read:

6 9003. If the Legislative Analyst is a proponent of a proposed
7 measure, the circulating title and summary of the chief purpose
8 and points of the proposed measure, including an estimate or
9 opinion on the financial impact of the measure, shall be prepared
10 by the Legislative Counsel, and the other duties of the Legislative
11 Analyst specified in this chapter with respect to the circulating
12 title and ballot title and summary and an estimate of the financial
13 effect of the measure shall be performed by the Legislative
14 Counsel.

15 ~~SEC. 6. Section 9004 of the Elections Code is amended to read:~~

16 ~~9004. (a) Upon receipt of the text of a proposed initiative~~
17 ~~measure, the Legislative Analyst shall prepare a circulating title~~
18 ~~and summary of the chief purposes and points of the proposed~~
19 ~~measure. The circulating title and summary shall not exceed a total~~
20 ~~of 100 words. The Legislative Analyst shall also provide a unique~~
21 ~~numeric identifier for each proposed initiative measure. The~~
22 ~~circulating title and summary shall be prepared in the manner~~
23 ~~provided for the preparation of ballot titles and summaries in~~
24 ~~Article 5 (commencing with Section 9050), the provisions of~~
25 ~~which, in regard to the preparation, filing, and settlement of ballot~~
26 ~~titles and summaries, are hereby made applicable to the circulating~~
27 ~~title and summary.~~

28 ~~(b) The Legislative Analyst shall provide a copy of the~~
29 ~~circulating title and summary and its unique numeric identifier to~~
30 ~~the proponents and to the Secretary of State within 15 days after~~
31 ~~receipt of the final version of a proposed initiative measure, or if~~
32 ~~a fiscal estimate or opinion is to be included, within 15 days after~~
33 ~~determining that a fiscal estimate or opinion is required pursuant~~
34 ~~to Section 9005. The date the copy is delivered or mailed to the~~
35 ~~proponents is the "official summary date."~~

36 ~~(c) Upon receipt of the circulating title and summary from the~~
37 ~~Legislative Analyst, the Secretary of State shall, within one~~
38 ~~business day, notify the proponents and county elections official~~
39 ~~of each county of the official summary date and provide a copy~~
40 ~~of the circulating title and summary to each county elections~~

1 ~~official. This notification shall also include a complete schedule~~
2 ~~showing the maximum filing deadline, and the certification~~
3 ~~deadline by the counties to the Secretary of State.~~

4 *SEC. 6. Section 9004 of the Elections Code is amended to read:*

5 9004. (a) Upon receipt of the text of a proposed initiative
6 measure, the ~~Attorney General~~ *Legislative Analyst* shall prepare
7 a circulating title and summary of the chief purposes and points
8 of the proposed measure. The circulating title and summary shall
9 not exceed a total of 100 words. The ~~Attorney General~~ *Legislative*
10 *Analyst* shall also provide a unique numeric identifier for each
11 proposed initiative measure. The circulating title and summary
12 shall be prepared in the manner provided for the preparation of
13 ballot titles and summaries in Article 5 (commencing with Section
14 9050), the provisions of which, in regard to the preparation, filing,
15 and settlement of ballot titles and summaries, are hereby made
16 applicable to the circulating title and summary.

17 (b) The ~~Attorney General~~ *Legislative Analyst* shall provide a
18 copy of the circulating title and summary and its unique numeric
19 identifier to the proponents and to the Secretary of State within ~~15~~
20 *30* days after receipt of the ~~fiscal estimate or opinion prepared by~~
21 ~~the Department of Finance and the Joint Legislative Budget~~
22 ~~Committee pursuant to Section 9005~~ *final version of a proposed*
23 *initiative measure*. The date the copy is delivered or mailed to the
24 proponents is the “official summary date.”

25 (c) Upon receipt of the circulating title and summary from the
26 ~~Attorney General~~ *Legislative Analyst*, the Secretary of State shall,
27 within one business day, notify the proponents and county elections
28 official of each county of the official summary date and provide
29 a copy of the circulating title and summary to each county elections
30 official. This notification shall also include a complete schedule
31 showing the maximum filing deadline, and the certification
32 deadline by the counties to the Secretary of State.

33 *SEC. 7. Section 9005 of the Elections Code is amended to read:*

34 9005. (a) The Legislative Analyst, in preparing a circulating
35 title and summary for a proposed initiative measure, shall, in
36 boldface print, include in the circulating title and summary either
37 the estimate of the amount of any increase or decrease in revenues
38 or costs to the state or local government, or an opinion as to
39 whether or not a substantial net change in state or local finances
40 would result if the proposed initiative is adopted.

1 (e)

2 (b) The estimate shall be completed by the Legislative Analyst
3 within ~~15 days from the date of determining that the estimate is~~
4 ~~required~~ *the period specified in Section 9002*, unless, in the opinion
5 of the Legislative Analyst, a reasonable estimate of the net impact
6 of the proposed initiative measure cannot be prepared within ~~the~~
7 ~~15-day~~ *that* period. In the latter case, the Legislative Analyst shall,
8 within the ~~15-day~~ *period specified in Section 9002*, give his or her
9 opinion as to whether or not a substantial net change in state or
10 local finances would result if the proposed initiative measure is
11 adopted.

12 SEC. 8. Section 9006 of the Elections Code is amended to read:

13 9006. (a) Upon receipt of the text of a proposed referendum,
14 the Legislative Analyst shall prepare a circulating title and
15 summary of the chief purpose and points of the proposed statute
16 at issue. The circulating title and summary shall not exceed a total
17 of 100 words. No fiscal analysis shall be included.

18 (b) The Legislative Analyst shall provide a copy of the
19 circulating title and summary of the proposed referendum to the
20 proponents and to the Secretary of State within 10 days after receipt
21 of the proposed referendum.

22 (c) Upon receipt of the circulating title and summary from the
23 Legislative Analyst, the Secretary of State shall, within one
24 business day, notify the proponents and county elections official
25 of each county of the official summary date and provide a copy
26 of the circulating title and summary to each county elections
27 official. This notification shall also include a complete schedule
28 showing the maximum filing deadline, and the certification
29 deadline by the counties to the Secretary of State.

30 SEC. 9. Section 9007 of the Elections Code is amended to read:

31 9007. Immediately upon the preparation of the circulating title
32 and summary of a proposed initiative or referendum measure, the
33 Legislative Analyst shall forthwith transmit copies of the text of
34 the measure and the circulating title and summary to the Senate
35 and the Assembly. The appropriate committees of each house may
36 hold public hearings on the subject of the measure. However,
37 nothing in this section shall be construed as authority for the
38 Legislature to alter the measure or prevent it from appearing on
39 the ballot.

1 SEC. 10. Section 9008 of the Elections Code is amended to
2 read:

3 9008. Every proposed initiative measure, prior to circulation,
4 shall have placed across the top of the petition in 12-point or larger
5 roman boldface type all of the following:

6 (a) The Legislative Analyst’s unique numeric identifier placed
7 before the circulating title and summary upon each page where
8 the circulating title and summary is to appear.

9 (b) The circulating title and summary prepared by the Legislative
10 Analyst upon each page of the petition on which signatures are to
11 appear.

12 (c) The circulating title and summary prepared by the Legislative
13 Analyst upon each section of the petition preceding the text of the
14 measure.

15 (d) The circulating title and summary prepared by the Legislative
16 Analyst as required by subdivision (c) shall be preceded by the
17 following statement: “Initiative measure to be submitted directly
18 to the voters.”

19 SEC. 11. Section 9009 of the Elections Code is amended to
20 read:

21 9009. The heading of an initiative petition shall be in
22 substantially the following form:

23 Initiative Measure to Be Submitted Directly to the Voters
24 The Legislative Analyst of California has prepared the following
25 circulating title and summary of the chief purpose and points of
26 the proposed measure:

27 (Here set forth the unique numeric identifier provided by the
28 Legislative Analyst and circulating title and summary prepared by
29 the Legislative Analyst. Both the Legislative Analyst’s unique
30 numeric identifier and the circulating title and summary must also
31 be printed across the top of each page of the petition whereon
32 signatures are to appear.)

33 To the Honorable Secretary of State of California
34 We, the undersigned, registered, qualified voters of California,
35 residents of ____ County (or City and County), hereby propose
36 amendments to the Constitution of California (the ____ Code,
37 relating to ____) and petition the Secretary of State to submit the
38 same to the voters of California for their adoption or rejection at
39 the next succeeding general election or at any special statewide
40 election held prior to that general election or as otherwise provided

1 by law. The proposed constitutional (or statutory) amendments
2 (full title and text of the measure) read as follows:

3 SEC. 12. Section 9034 of the Elections Code is amended to
4 read:

5 9034. Upon the certification of an initiative measure for the
6 ballot, the Secretary of State shall transmit copies of the initiative
7 measure, together with the circulating title and summary as
8 prepared by the Legislative Analyst pursuant to Section 9004, to
9 the Senate and the Assembly. Each house shall assign the initiative
10 measure to its appropriate committees. The appropriate committees
11 shall hold joint public hearings on the subject of the measure prior
12 to the date of the election at which the measure is to be voted upon.
13 However, no hearing may be held within 30 days prior to the date
14 of the election.

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

18 SEC. 13. Section 9035 of the Elections Code is amended to
19 read:

20 9035. An initiative measure may be proposed by presenting to
21 the Secretary of State a petition that sets forth the text of the
22 proposed statute or amendment to the Constitution and is certified
23 to have been signed by registered voters equal in number to 5
24 percent in the case of a statute, and 8 percent in the case of an
25 amendment to the California Constitution, of the voters for all
26 candidates for Governor at the last gubernatorial election preceding
27 the issuance of the circulating title and summary for the initiative
28 measure by the Legislative Analyst.

29 SEC. 14. Section 9050 of the Elections Code is amended to
30 read:

31 9050. After the Secretary of State determines that a measure
32 will appear on the ballot at the next statewide election, the
33 Secretary of State shall promptly transmit a copy of the measure
34 to the Legislative Analyst. The Legislative Analyst shall provide
35 and return to the Secretary of State a ballot title and summary and
36 ballot label for a measure submitted to the voters of the whole state
37 by a date sufficient to meet the ballot pamphlet public display
38 deadlines.

39 SEC. 15. Section 9051 of the Elections Code is amended to
40 read:

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

5 (2) The ballot title and summary shall be amended to include a
6 summary of the Legislative Analyst’s estimate of the net state and
7 local government fiscal impact prepared pursuant to Section 9087
8 of this code and Section 88003 of the Government Code.

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

14 (c) In providing the ballot title and summary, the Legislative
15 Analyst shall give a true and impartial statement of the purpose of
16 the measure in such language that the ballot title and summary
17 shall neither be an argument, nor be likely to create prejudice, for
18 or against the proposed measure.

19 SEC. 16. Section 9053 of the Elections Code is amended to
20 read:

21 9053. A measure shall be designated on the ballot by the ballot
22 label certified to the Secretary of State by the Legislative Analyst.

23 SEC. 17. Section 9054 of the Elections Code is amended to
24 read:

25 9054. (a) Whenever a city, county, or city and county is
26 required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section
27 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights
28 Act of 1965 to provide a translation of ballot materials in a
29 language other than English, the Secretary of State shall provide
30 a translation of the ballot title and summary prepared pursuant to
31 Sections 9050 and 9051 and of the ballot label prepared pursuant
32 to Section 13247 in that language to the city, county, or city and
33 county for a state measure submitted to the voters in a statewide
34 election not later than 68 days prior to that election.

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

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

6 (d) The local elections official shall use the translation of the
7 ballot label prepared pursuant to this section on the sample ballot
8 and the official ballot and may not select or contract with another
9 person to provide translations of the same text.

10 SEC. 18. Section 9063 of the Elections Code is amended to
11 read:

12 9063. The summary of a measure given in the press release
13 shall be the official circulating title and summary that has been
14 prepared by the Legislative Analyst. The Legislative Counsel
15 Bureau shall prepare the summary on all other measures.

16 SEC. 19. Section 9086 of the Elections Code is amended to
17 read:

18 9086. The ballot pamphlet shall contain as to each state measure
19 to be voted upon, the following, in the order set forth in this
20 section:

21 (a) Upon the top portion of the first page, and not exceeding
22 one-third of the page, shall appear:

- 23 (1) Identification of the measure by number and title.
- 24 (2) The official summary prepared by the Legislative Analyst.
- 25 (3) The total number of votes cast for and against the measure
26 in both the State Senate and Assembly, if the measure was passed
27 by the Legislature.

28 (b) Beginning at the top of the right page shall appear the
29 analysis prepared by the Legislative Analyst, provided that the
30 analysis fits on a single page. If it does not fit on a single page,
31 the analysis shall begin on the lower portion of the first left page
32 and shall continue on subsequent pages until it is completed.

33 (c) Arguments for and against the measure shall be placed on
34 the next left and right pages, respectively, following the final page
35 of the analysis of the Legislative Analyst. The rebuttals shall be
36 placed immediately below the arguments.

37 (d) If no argument against the measure has been submitted, the
38 argument for the measure shall appear on the right page facing the
39 analysis.

1 (e) The complete text of each measure shall appear at the back
2 of the pamphlet. The text of the measure shall contain the
3 provisions of the proposed measure and the existing provisions of
4 law repealed or revised by the measure. The provisions of the
5 proposed measure differing from the existing provisions of law
6 affected shall be distinguished in print, so as to facilitate
7 comparison.

8 (f) The following statement shall be printed at the bottom of
9 each page where arguments appear: "Arguments printed on this
10 page are the opinions of the authors, and have not been checked
11 for accuracy by any official agency."

12 ~~SEC. 20. Section 13247 of the Elections Code is amended to~~
13 ~~read:~~

14 ~~13247. (a) The statement of all measures submitted to the~~
15 ~~voters shall be abbreviated on the ballot. The statement shall~~
16 ~~contain not more than 75 words of each measure to be voted on,~~
17 ~~followed by the words, "Yes" and "No." Abbreviation of measures~~
18 ~~to be voted on throughout the state shall be composed by the~~
19 ~~Legislative Analyst and shall be a condensed statement of the~~
20 ~~ballot title prepared by him or her.~~

21 ~~(b) For purposes of measures to be voted on throughout the~~
22 ~~state, the limitation contained in subdivision (a) shall apply to the~~
23 ~~total number of words used in the condensed statement of the ballot~~
24 ~~title and the financial impact summary prepared pursuant to Section~~
25 ~~9087 of this code and Section 88003 of the Government Code.~~

26 ~~SEC. 21.~~

27 ~~SEC. 20. Section 13262 of the Elections Code is amended to~~
28 ~~read:~~

29 13262. (a) The ballot shall contain the same material as to
30 candidates and measures, and shall be printed in the same order
31 as provided for paper ballots, and may be arranged in parallel
32 columns on one or more ballot cards as required, except that the
33 column in which the voter marks his or her choices may be at the
34 left of the names of candidates and the designation of measures.

35 (b) If there are a greater number of candidates for an office or
36 for a party nomination for an office than the number whose names
37 can be placed on one pair of facing ballot pages, a series of
38 overlaying pages printed only on the same, single side shall be
39 used, and the ballot shall be clearly marked to indicate that the list
40 of candidates for the office is continued on the following page or

1 pages. If the names of candidates for the office are not required to
2 be rotated, they shall be rotated by groups of candidates in a
3 manner so that the name of each candidate shall appear on each
4 page of the ballot in approximately the same number of precincts
5 as the names of all other candidates.

6 (c) Space shall be provided on the ballot or on a separate write-in
7 ballot to permit voters to write in names not printed on the ballot
8 when authorized by law. The size of the voting square and the
9 spacing of the material may be varied to suit the conditions
10 imposed by the use of ballot cards, provided the size of the type
11 is not reduced below the minimum size requirements set forth in
12 Chapter 2 (commencing with Section 13100).

13 (d) The statement of measure submitted to the voters may be
14 abbreviated if necessary on the ballot, if each and every statement
15 of measures on that ballot is abbreviated. Abbreviation of matters
16 to be voted on throughout the state shall be composed by the
17 Legislative Analyst.

18 ~~SEC. 22.~~

19 *SEC. 21.* Section 13282 of the Elections Code is amended to
20 read:

21 13282. Whenever the Legislative Analyst prepares a ballot
22 label, the Legislative Analyst shall file a copy of the ballot label
23 with the Secretary of State. The Secretary of State shall make a
24 copy of the ballot label available for public examination prior to
25 the printing of the ballot label on any ballot. The public shall be
26 permitted to examine the ballot label for at least 20 days, and the
27 Secretary of State may consolidate the examination requirement
28 under this section with the public examination requirements set
29 forth in Section 9092. A voter may seek a writ of mandate requiring
30 a ballot label, or portion thereof, to be amended or deleted. The
31 provisions set forth in Section 9092 concerning the issuance of the
32 writ and the nature of the proceedings shall be applicable to this
33 section.

34 ~~SEC. 23.~~

35 *SEC. 22.* Section 18602 of the Elections Code is amended to
36 read:

37 18602. A person working for the proponent or proponents of
38 a statewide initiative or referendum measure who covers or
39 otherwise obscures the summary of the measure prepared by the

1 Legislative Analyst from the view of a prospective signer is guilty
2 of a misdemeanor.

3 ~~SEC. 24.~~

4 *SEC. 23.* Sections 1 to~~23~~ 22, inclusive, of this act shall become
5 operative only if Assembly Constitutional Amendment 20 of the
6 2009–10 Regular Session is approved by voters at a statewide
7 general election.

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