

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 884

Introduced by Assembly Member Rendon

February 26, 2015

An act to amend ~~Section~~ *Sections 9001 and 9004 of, to add Section 9008.5 to, and to repeal Section 18650 of, of the Elections Code, and to amend Section 6253.5 of the Government Code, relating to initiatives.*

LEGISLATIVE COUNSEL'S DIGEST

AB 884, as amended, Rendon. Initiative petitions: ~~public records. title and summary.~~

~~(1) Under the California Public Records Act, statewide, county, city, and district initiative, referendum, and recall petitions, certain other petitions, and related memoranda are not public records and are not open to inspection, except as specified.~~

~~(1) Existing law requires the proponents of a proposed ballot initiative or referendum to pay a fee of \$200 to the Attorney General for preparation of a circulating title and summary.~~

~~This bill would create an exception to that exemption for petitions for statewide initiatives that the Attorney General has determined would likely result in a violation of an individual's constitutional rights, thereby making those petitions subject to inspection by the public. By requiring local agencies to produce additional records for inspection, this bill would impose a state-mandated local program. *increase the fee from \$200 to \$1,000, and would authorize the Attorney General, on an annual basis, to determine the actual costs of preparing the title and summary*~~

and increase the fee to a maximum of \$5,000 to recover the full cost of preparing the title and summary.

~~(2) Existing law requires the Attorney General to provide a ballot label and a ballot title for each measure to be submitted to the voters at a statewide election, and requires the Attorney General to prepare a summary of the chief purposes and points of each statewide ballot measure as part of the ballot title. Existing law provides for the format of an initiative measure petition and requires, prior to circulation, the placement of specified information across the top of the petition of a proposed initiative measure in 12-point or larger roman boldface type.~~

~~This bill would require the Attorney General, if he or she determines during preparation of the circulating title and summary for a statewide initiative measure that the measure would likely result in a violation of an individual's constitutional rights, to include a specified statement in the title and summary. The bill would require, for those measures that the Attorney General determines would likely result in a violation of an individual's constitutional rights, specified information on the petition to be in 16-point or larger roman boldface type, and would require a statement notifying the public that the petition, including information provided by signatories to the petition, is subject to the California Public Records Act.~~

~~(3) Existing law prohibits a person from knowingly or willfully permitting the list of signatures on an initiative, referendum, or recall petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot, and provides that violation of that provision is a misdemeanor.~~

~~This bill would repeal those provisions.~~

~~The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.~~

~~This bill would make legislative findings to that effect.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

1 ~~SECTION 1. Section 6253.5 of the Government Code is~~
2 ~~amended to read:~~
3 ~~6253.5. (a) Notwithstanding Sections 6252 and 6253, and~~
4 ~~except as provided by subdivision (d), statewide, county, city, and~~
5 ~~district initiative, referendum, and recall petitions, petitions~~
6 ~~circulated pursuant to Section 5091 of the Education Code,~~
7 ~~petitions for the reorganization of school districts submitted~~
8 ~~pursuant to Article 1 (commencing with Section 35700) of Chapter~~
9 ~~4 of Part 21 of the Education Code, petitions for the reorganization~~
10 ~~of community college districts submitted pursuant to Part 46~~
11 ~~(commencing with Section 74000) of the Education Code and all~~
12 ~~memoranda prepared by the county elections officials in the~~
13 ~~examination of the petitions indicating which registered voters~~
14 ~~have signed particular petitions shall not be deemed public records~~
15 ~~and shall not be open to inspection except by the public officer or~~
16 ~~public employees who have the duty of receiving, examining, or~~
17 ~~preserving the petitions or who are responsible for the preparation~~
18 ~~of that memoranda and, if the petition is found to be insufficient,~~
19 ~~by the proponents of the petition and the representatives of the~~
20 ~~proponents as may be designated by the proponents in writing in~~
21 ~~order to determine which signatures were disqualified and the~~
22 ~~reasons for disqualification. However, the Attorney General, the~~
23 ~~Secretary of State, the Fair Political Practices Commission, a~~
24 ~~district attorney, a school district or a community college district~~
25 ~~attorney, and a city attorney shall be permitted to examine the~~
26 ~~material upon approval of the appropriate superior court.~~
27 ~~(b) If the proponents of a petition are permitted to examine the~~
28 ~~petition and memoranda, the examination shall commence not~~
29 ~~later than 21 days after the date of certification of insufficiency.~~
30 ~~(c) As used in this section:~~
31 ~~(1) "Petition" means any petition to which a registered voter~~
32 ~~has affixed his or her signature.~~
33 ~~(2) "Proponents of the petition" means the following:~~
34 ~~(A) For statewide initiative and referendum measures, the person~~
35 ~~or persons who submit a draft of a petition proposing the measure~~

1 to the Attorney General with a request that he or she prepare a title
2 and summary of the chief purpose and points of the proposed
3 measure.

4 (B) For other initiative and referenda on measures, the person
5 or persons who publish a notice of intention to circulate petitions,
6 or, where publication is not required, who file petitions with the
7 elections official.

8 (C) For recall measures, the person or persons defined in Section
9 343 of the Elections Code.

10 (D) For petitions circulated pursuant to Section 5091 of the
11 Education Code, the person or persons having charge of the petition
12 who submit the petition to the county superintendent of schools.

13 (E) For petitions circulated pursuant to Article 1 (commencing
14 with Section 35700) of Chapter 4 of Part 21 of Division 3 of Title
15 2 of the Education Code, the person or persons designated as chief
16 petitioners under Section 35701 of the Education Code.

17 (F) For petitions circulated pursuant to Part 46 (commencing
18 with Section 74000) of Division 7 of Title 3 of the Education Code,
19 the person or persons designated as chief petitioners under Sections
20 74102, 74133, and 74152 of the Education Code.

21 (d) This section does not apply to petitions for statewide
22 initiative measures that the Attorney General has determined, in
23 accordance with subdivision (b) of Section 9004 of the Elections
24 Code, would likely result in a violation of an individual's
25 constitutional rights.

26 *SECTION 1. Section 9001 of the Elections Code is amended*
27 *to read:*

28 9001. (a) ~~Prior to~~ *Before* the circulation of ~~any~~ *an* initiative
29 or referendum petition for signatures, the text of the proposed
30 measure shall be submitted to the Attorney General with a written
31 request that a circulating title and summary of the chief purpose
32 and points of the proposed measure be prepared. The electors
33 presenting the request shall be known as the "proponents." The
34 Attorney General shall preserve the written request until after the
35 next general election.

36 (b) Each and every proponent of ~~any~~ *a* proposed initiative
37 measure shall, at the time of submitting the text of the proposed
38 measure, provide both of the following:

39 (1) An original signed certification stating that "I, (insert name),
40 declare under penalty of perjury that I am a citizen of the United

1 States, 18 years of age or older, and a resident of (insert county),
2 California.”

3 (2) Public contact information.

4 (c) The proponents of ~~any~~ *an* initiative measure, at the time of
5 submitting the text of the proposed measure to the Attorney
6 General, shall pay a fee ~~of two hundred dollars (\$200), which of~~
7 *one thousand dollars (\$1,000) to the Attorney General that shall*
8 *be placed in a trust fund in the office of the Treasurer and refunded*
9 *to the proponents if the measure qualifies for the ballot within two*
10 *years from the date the summary is furnished to the proponents.*
11 *If Treasurer.*

12 (1) *On an annual basis, the Attorney General may determine*
13 *the actual costs of preparing the title and summary and increase*
14 *the fee to a maximum of five thousand dollars (\$5,000) to recover*
15 *the full cost of preparing the title and summary.*

16 (2) *If the measure qualifies for the ballot within two years from*
17 *the date the summary is furnished to the proponents, the fee*
18 *described in this subdivision shall be refunded to the proponents.*
19 *If the measure does not qualify within that period, the fee shall be*
20 *immediately paid into the General Fund of the state.*

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

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

30 SEC. 2. Section 9004 of the Elections Code is amended to read:

31 9004. (a) Upon receipt of the text of a proposed initiative
32 measure, and after the public review period provided for in Section
33 9002, the Attorney General shall prepare a circulating title and
34 summary of the chief purposes and points of the proposed measure.
35 The circulating title and summary shall not exceed 100 words. The
36 Attorney General shall also provide a unique numeric identifier
37 for each proposed initiative measure. The circulating title and
38 summary shall be prepared in the manner provided for the
39 preparation of ballot titles and summaries in Article 5 (commencing
40 with Section 9050), the provisions of which, in regard to the

1 preparation, filing, and settlement of ballot titles and summaries,
2 are applicable to the circulating title and summary.

3 (b) If, during his or her preparation of the circulating title and
4 summary for a proposed initiative measure, the Attorney General
5 determines that the measure would likely result in a violation of
6 an individual's constitutional rights, he or she shall include the
7 following statement in the circulating title and summary:

8 "The Attorney General has determined that this initiative
9 measure, if approved by the voters, would likely result in a
10 violation of an individual's rights under the United States
11 Constitution or the California Constitution."

12 (c) The Attorney General shall provide a copy of the circulating
13 title and summary and its unique numeric identifier to the
14 proponents and to the Secretary of State within 15 days after receipt
15 of the fiscal estimate or opinion prepared by the Department of
16 Finance and the Legislative Analyst pursuant to Section 9005. The
17 date the copy is delivered or mailed to the proponents is the
18 "official summary date."

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

27 ~~SEC. 3.— Section 9008.5 is added to the Elections Code, to read:~~

28 ~~9008.5.— A proposed initiative measure that the Attorney General~~
29 ~~has determined, in accordance with subdivision (b) of Section~~
30 ~~9004, would likely result in a violation of an individual's~~
31 ~~constitutional rights shall, prior to circulation, have placed across~~
32 ~~the top of the petition in 16-point or larger roman boldface type,~~
33 ~~all of the following:~~

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

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

1 ~~(e) The circulating title and summary prepared by the Attorney~~
2 ~~General upon each section of the petition preceding the text of the~~
3 ~~measure.~~

4 ~~(d) The circulating title and summary prepared by the Attorney~~
5 ~~General as required by subdivision (e) shall be preceded by the~~
6 ~~following statement: “Initiative measure to be submitted directly~~
7 ~~to the voters. This petition, including information provided by~~
8 ~~signatories to the petition, is subject to the California Public~~
9 ~~Records Act.”~~

10 ~~SEC. 4. Section 18650 of the Elections Code is repealed.~~

11 ~~SEC. 5. The Legislature finds and declares that Section 1 of~~
12 ~~this act, which amends Section 6253.5 of the Government Code,~~
13 ~~further, within the meaning of paragraph (7) of subdivision (b)~~
14 ~~of Section 3 of Article I of the California Constitution, the purposes~~
15 ~~of that constitutional section as it relates to the right of public~~
16 ~~access to the meetings of local public bodies or the writings of~~
17 ~~local public officials and local agencies. Pursuant to paragraph (7)~~
18 ~~of subdivision (b) of Section 3 of Article I of the California~~
19 ~~Constitution, the Legislature makes the following findings:~~

20 ~~Access to information concerning proposed measures to be~~
21 ~~submitted directly to the voters related to the people’s business is~~
22 ~~a fundamental and necessary right of every person in this state,~~
23 ~~and serves to preserve the integrity of the electoral process by~~
24 ~~combating fraud and fostering government transparency and~~
25 ~~accountability.~~

26 ~~SEC. 6. No reimbursement is required by this act pursuant to~~
27 ~~Section 6 of Article XIII B of the California Constitution because~~
28 ~~the only costs that may be incurred by a local agency or school~~
29 ~~district under this act would result from a legislative mandate that~~
30 ~~is within the scope of paragraph (7) of subdivision (b) of Section~~
31 ~~3 of Article I of the California Constitution.~~