

RESOLUTION 10-04-2013

DIGEST

Election Law: Notice of Interested Parties for Ballot Initiative Petitions

Amends Election Code section 101 to require that interested parties supporting a ballot initiative be disclosed on an initiative petition required to be signed by voters.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Election Code section 101 to require that interested parties supporting a ballot initiative be disclosed on an initiative petition required to be signed by voters. This resolution should be approved in principle because it requiring the disclosure of organizations who support the proposed petition would make the process more transparent.

This resolution is necessary because big businesses, special interest groups and wealthy individuals are spending a significant amount of money to support petitions for propositions, without voters knowing who supports the petition. Interested parties and parent organizations should be disclosed on the petition, so that a person signing the petition will know who supports it, and prevent someone from signing a petition against that signor's interest. By requiring a petition to disclose all those who support the petition, this resolution would allow the voter to be more informed about the reasons for requesting the changes in the law, thus, making the process more transparent.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to amend Elections Code section 101, to read as follows:

1 § 101

2 (a) Notwithstanding any other provision of law, any state or local initiative petition
3 required to be signed by voters shall contain in 12-point type, prior to that portion of the petition
4 for voters' signatures, printed names, and residence addresses, the following language:

5 **“NOTICE TO THE PUBLIC**

6 **THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A**
7 **VOLUNTEER. ~~YOU HAVE THE RIGHT TO ASK.~~”**

8 (b) If the petition is circulated by a paid signature gatherer or volunteer, the following
9 additional information also in bold face type must directly follow the notice in subdivision (a):

10 (1) The identity of the individual, association of persons, company, or entity that the
11 circulator works or volunteers for. If an association of persons, company, or entity is paying the
12 circulator, the notice must also include the identity and location of any parent entity, the identity

13 and location of any publicly held corporation with a 10% or greater ownership interest, and the
14 identity and location of any individual or entity with a 20% or greater ownership interest.

15 (2) The identity of the initiative’s proponent or proponents. If a proponent is an
16 association of persons, company, or entity, the notice must also include the identity and location
17 of any parent entity, the identity and location of any publicly held corporation with a 10% or
18 greater ownership interest, and the identity and location of any individual or entity with a 20% or
19 greater ownership interest.

20 (c) Violations of any of the provisions in this section shall result in civil penalties of \$50
21 per signature collected on the petition.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Scott O. Luskin, Vicky Barker, Robin Bernstein-Lev, Joseph Goldstein, Jo-Ann Grace, Richard Hoang, Jean Paul Jamarne, Phyllis Kupferstein, Morgan Pietz, Jodi Taksar, Helene Wasserman

STATEMENT OF REASONS

The Problem: The ballot initiative system was meant to allow direct democracy, so that individual voters could bypass the legislature to effectuate changes in the law. But the current proposition system is broken. Currently, there is no requirement that ballot petitions identify the initiative’s proponent and neither paid signature gatherers nor volunteers must affirmatively state who they work for. This lack of transparency allows special interests, big businesses, and wealthy individuals to co-opt the system. They are allowed to spend exorbitant amounts of money to promote their proposition and get it on the ballot without the voters knowing. For example, in the November 2012 election, Proposition 17 was funded almost entirely by Mercury Insurance. Another initiative was funded primarily by two out-of-state oil companies.

This Solution: Currently, there is no requirement that paid signature gatherers or volunteers affirmatively state who they work for. In fact, people solicited for signatures are allowed merely to ask whether the person is a paid signature gatherer or volunteer. This resolution makes transparent on each petition for a ballot initiative two important things. First, what person or organization is collecting the signatures. Second, what person or organization, including an entity’s owners or parent company, is the proponent of the ballot initiative. The resolution also includes civil penalties for utilizing non-conforming petitions. By requiring each petition to identify the interested parties and their parent organizations, persons signing petitions will be more informed about the proponents of ballot initiatives and the reasons for requesting changes to current law. While this resolution may not fix the system entirely, it will go a long way towards at least preventing voters from signing petitions that may favor just one group or be against their own interests.

LEGISLATIVE HISTORY

Not known

IMPACT STATEMENT

The proposed resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: Scott Luskin, Payne & Fears LLP, 801 South Figueroa Street Suite 1150, Los Angeles, California 90017; (213) 4399911; sol@paynefears.com.

RESPONSIBLE FLOOR DELEGATE: Scott Luskin

COUNTER-ARGUMENT(S) TO RESOLUTION 10-04-2013

SAN DIEGO COUNTY BAR ASSOCIATION

This Resolution seeks to change required notice for paid signature gatherers to identify primary stake holders sponsoring the initiative. However, the proffered language in Subdivision (b)(2) would likely be practically unenforceable because associations normally do not have owners or persons with ownership interests like shareholders of a corporation. The SDCBA Delegation would likely change its position if a friendly amendment were offered to broaden language of Subd. (b)(2) to include "donor" or similar language.