

RESOLUTION 13-03-2017 (REVISED AS AMENDED)

DIGEST

Elections: Grouping Ballot Measures

Amends Election Code sections 9096 and 13115 and adds Election Code section 13115.5 to require that similar ballot measures be grouped together on the ballot.

RESOLUTION COMMITTEE COMMENTS

History:

No similar resolutions found.

Reasons:

This resolution amends Election Code 15115 and adds Election Code section 13115.5 to require that similar ballot measures be grouped together on the ballot. This makes it easier for consumers and voters to know and understand the potential impact of their votes. The final decision is open to review by the court. Voters tend to vote in sequence and this can create situations where the proposal that wins is simply the one that is placed earlier on the ballot and not actually based on the merits.

The Resolutions Committee initially recommended disapproval of this resolution. The full Conference voted to approve the resolution as amended.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Elections Code section 13115 and add section 13115.5, to read as follows:

- 1 § 9086
2 The state voter information guide shall contain as to each state measure to be voted upon,
3 the following, in the order set forth in this section:
4 (a) (1) Upon the top portion of the first page, and not exceeding one-third of the page,
5 shall appear:
6 (A) Identification of the measure by number and title.
7 (B) The official summary prepared by the Attorney General.
8 (C) The total number of votes cast for and against the measure in both the State Senate
9 and Assembly, if the measure was passed by the Legislature.
10 (D) A warning label, per Elections Code section 13115.5, if applicable.
11 (2) The space in the title and summary that is used for an explanatory table prepared
12 pursuant to paragraph (2) of subdivision (e) of Section 9087 and Section 88003 of the
13 Government Code shall not be included when measuring the amount of space the information
14 described in paragraph (1) has taken for purposes of determining compliance with the restriction
15 prohibiting the information described in paragraph (1) from exceeding one-third of the page.
16 (b) Beginning at the top of the right page shall appear the analysis prepared by the
17 Legislative Analyst if the analysis fits on a single page. If it does not fit on a single page, the

18 analysis shall begin on the lower portion of the first left page and shall continue on subsequent
19 pages until it is completed.

20 (c) Immediately below the analysis prepared by the Legislative Analyst shall appear a
21 printed statement that refers voters to the Secretary of State's Internet Web site for a list of
22 committees primarily formed to support or oppose a ballot measure, and information on how to
23 access the committee's top 10 contributors.

24 (d) Arguments for and against the measure shall be placed on the next left and right
25 pages, respectively, following the final page of the analysis of the Legislative Analyst. The
26 rebuttals shall be placed immediately below the arguments.

27 (e) If no argument against the measure has been submitted, the argument for the measure
28 shall appear on the right page facing the analysis.

29 (f) The complete text of each measure shall appear at the back of the guide. The text of
30 the measure shall contain the provisions of the proposed measure and the existing laws repealed
31 or revised by the measure. The provisions of the proposed measure differing from the existing
32 laws affected shall be distinguished in print, so as to facilitate comparison.

33 (g) The following statement shall be printed at the bottom of each page where arguments
34 appear: "Arguments printed on this page are the opinions of the authors, and have not been
35 checked for accuracy by any official agency."
36

37 § 13115

38 Except as provided in Section 13115.5, the order in which all state measures that are to
39 be submitted to the voters shall appear on the ballot is as follows:

40 (a) Bond measures, including those proposed by initiative, in the order in which they
41 qualify.

42 (b) Constitutional amendments, including those proposed by initiative, in the order in
43 which they qualify.

44 (c) Legislative measures, other than those described in subdivision (a) or (b), in the order
45 in which they are approved by the Legislature.

46 (d) Initiative measures, other than those described in subdivision (a) or (b), in the order in
47 which they qualify.

48 (e) Referendum measures, in the order in which they qualify.
49

50 § 13115.5

51 Notwithstanding Section 13115, the Attorney General shall determine which measures on
52 the same ballot potentially conflict with each other and the Secretary of State shall group these
53 measures consecutively. The ruling of the Attorney General on whether measures conflict is
54 reviewable in a final and expedited hearing in the Sacramento County Superior Court. Such
55 measures shall be accompanied by a warning label in the state voter information guide prepared
56 under Elections Code sections 9080 through 9096 stating the Attorney General has concluded
57 that the measures appear to conflict with each other and that likely only the provisions of the one
58 receiving the most votes will become law, subject to a final court ruling.

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

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS

The Problem: When voting, we do not just elect lawmakers, but make law through propositions. Often, the laws passed in these cannot be modified by the legislature. Such a process should be as straightforward to us, the voters, as possible, but is not. Sometimes propositions conflict with each other such that only one of them can go into effect; usually, the one with the most “yes” votes then prevails if they both get majority approval. The voters get no indication of any of that while voting. Compounding this problem is that conflicting propositions can appear in different places on the list, further confusing voters and favoring the one that happens to appear first due to ballot fatigue. A recent illustration was in 2004, Propositions 60 and 62. 60 did nothing but codify the status quo and was put on by the legislature to thwart 62. Proposition 60 got 68%, while 62 got 46%, suggesting that 14% voted yes on both. If there had been an indication on the ballot that the two measures were in conflict and only one could prevail, that might not have happened.

The Solution: This resolution requires conflicting propositions to be listed one right after the other and to notify people when they vote that only one of them can take effect. That will ensure voters can more easily compare and contrast propositions on the same topic and are better informed of the ramifications of their vote.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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