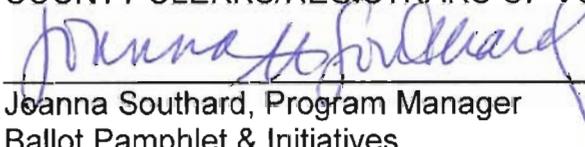




DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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September 27, 2007

TO: COUNTY CLERKS/REGISTRARS OF VOTERS (07151)
FROM: 
Joanna Southard, Program Manager
Ballot Pamphlet & Initiatives
RE: LEGISLATIVE DEADLINE FOR MEASURES TO BE INCLUDED
ON THE FEBRUARY 5, 2008, PRESIDENTIAL PRIMARY BALLOT

Attached is the September 25, 2007, letter from Secretary of State Bowen advising the Governor and Legislature regarding the deadline to place late legislative measures on the February ballot.

If you have any questions, please feel free to contact me at (916) 657-2184.



DEBRA BOWEN | SECRETARY OF STATE | STATE OF CALIFORNIA
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September 25, 2007

The Honorable Arnold Schwarzenegger
Governor
State Capitol
Sacramento, CA 95814

The Honorable Don Perata
Senate President pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

The Honorable Fabian Núñez
Speaker of the Assembly
State Capitol, Room 219
Sacramento, CA 95814

Dear Governor Schwarzenegger, President pro Tempore Perata and Speaker Núñez:

Thank you for your recent question asking whether the Legislature and the Governor can place measures on the February 5, 2008, Presidential Primary Election ballot after the statutory deadline to do so has passed.

As you know, Elections Code Section 9040 requires that a legislative measure must be enacted 131 days prior to a statewide election in order to appear on the ballot. September 27, 2007, is 131 days before the February 5, 2008, Presidential Primary Election. Any measure that is passed by the Legislature, signed by the Governor, and chaptered into law by my office on or before September 27, 2007, will automatically appear on the February 5, 2008, ballot.

The Legislature and the Governor have the authority to enact legislation to waive certain statutory requirements in order to place a measure or measures on the ballot after that date. The shortening of any statutory time requirements will reduce the time needed by my office to prepare a statewide election ballot pamphlet, and may reduce the time required by county elections officials to prepare and print both sample ballots and the ballots themselves for their voters.

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Under California law, the following tasks must be completed between the time a bill placing a measure on the ballot is enacted and the date on which ballots, sample ballots, and the statewide ballot pamphlet are sent to the printer:

- The Attorney General is required to complete the official ballot labels and ballot titles and summaries for each measure.
- The Legislative Analyst is required to analyze the text of each proposed law and must prepare a fiscal analysis. If the legislative measure is a bond, the Legislative Analyst must also prepare an Overview of State Bond Debt to be included in the state ballot pamphlet and provide it to the Secretary of State.
- Legislative Counsel is required to provide the text of the proposed law to the Secretary of State.
- The Secretary of State must issue a statutorily required press release inviting the public to submit arguments for each measure and providing notification of the submission deadline, should an argument not be received from the Legislature.
- The Senate President pro Tempore and the Assembly Speaker are required to appoint members from their respective houses who may have voted against the measures placed on the ballot by the Legislature and the Governor to author initial arguments against those measures.
- The proponents and opponents of each proposed law are required to submit arguments for each proposed ballot measure.
- The proponents and opponents of each proposed ballot measure, after reviewing each other's arguments, are then required to submit their rebuttal arguments for each proposed ballot measure.
- The Secretary of State is required to transmit the text of the ballot labels and ballot titles and summaries to translators so they can be translated into the six foreign languages required under the federal Voting Rights Act: Spanish, Chinese, Japanese, Vietnamese, Tagalog, and Korean. Under a new state law that took effect on January 1, 2007, (AB 2430 (Umberg), Chapter 378, Statutes of 2006) this process now must take place earlier in the election cycle. AB 2430 requires the translated ballot labels and ballot titles and summaries to be reviewed by an advisory body and put on public display at the same time the English language ballot labels, ballot titles and summaries, and ballot pamphlet are put on public display.
- The advisory body is required to provide any feedback to the Secretary of State, and the Secretary reviews any comments and advises the translators of any changes they are required to make. Twenty-five counties are required by federal law to provide election materials in multiple languages. A delay in providing bilingual materials may lead to a violation of the federal Voting Rights Act.
- Once all of the materials have been submitted, the Secretary of State's staff prepares the materials for public display. Each page must be stamped "Subject to Court-Ordered Changes." Copies of all materials are placed in public display binders, which are made available for public viewing at the Secretary of State's

Sacramento office, the Secretary's four regional offices, and on the Secretary of State's website.

- The ballot labels, ballot titles and summaries, and the ballot pamphlet itself must be put on display for a minimum of 20 days. While it is legally possible to truncate the display period for the ballot labels and ballot titles and summaries, it is difficult to shorten the required public display period for the ballot pamphlet itself. The requirement to display the ballot pamphlet for 20 days stems from the Political Reform Act. Amending the Act requires a two-thirds vote in both houses of the Legislature, that the amendment be in furtherance of the Act itself, and that any bill proposing to amend the Act must be in print for 12 days in its final form before the Legislature can act on it.
- Any legal challenges to the contents of the state ballot pamphlet, as well as the Attorney General's ballot labels and ballot titles and summaries, must be resolved. Depending on how a challenge is resolved, materials may have to go through the translation process a second time.

It is only after all of these tasks are completed that the English language version of the state ballot pamphlet can be sent to print and the final ballot language can be sent to the counties so they can begin preparing and printing their ballots and sample ballots. The State Printer takes approximately 20 to 40 days, depending on the length of the pamphlets, to print more than 13.5 million ballot pamphlets (one for each household with at least one registered voter). The pamphlet is also printed in large text. Audio cassettes, which do not include the actual text of the ballot measures, are made to assist voters with disabilities.

At the same time the English version of the ballot pamphlet goes to print, a final copy is provided to the contracted translators so they can translate it into the six foreign languages and provide a print-ready final version of the foreign language ballot pamphlet. The translation process can take approximately three weeks; however, printing of the foreign language ballot pamphlets is substantially quicker given the comparatively small numbers that are required to be provided. At the same time the foreign language ballot pamphlets are sent to print, audio cassettes, which, like the English language versions, do not include the actual text of the ballot measures, and large print ballot pamphlets of the translations must be completed.

At the county level, at least 16 million sample ballots and millions more actual ballots must be formatted and printed so that each voter only receives a ballot that includes those candidates and measures for which he or she is eligible to vote. Some counties must print ballots in languages other than English (Los Angeles County has to print ballots in six languages other than English). This requires substantial layout and proofing to ensure accuracy. Any delay in placing measures on the ballot compresses

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the time printers have in which to produce precinct ballots, absentee ballots, sample ballots, and other materials for California's 58 counties.

Please note that because counties and their printers need the ballot labels and ballot titles and summaries before they can begin their tasks, simply requiring the state printer to print the state ballot pamphlet more quickly is not sufficient to accommodate any further delay in the deadline for a measure to be passed, signed, and chaptered.

Under the current statutory deadlines, the schedule reflecting the critical dates for the February 5, 2008, Presidential Primary Election is as follows:

- September 27, 2007 (E-131). Per Elections Code Section 9040, this is the last day for a legislative measure to be passed, signed, and chaptered in order to qualify for the ballot.
- October 23, 2007 (E-105). First day of 20-day public display period.
- November 13, 2007 (E-84). End of the 20-day public display period. Ballot pamphlet goes to print. The 20th day is actually November 12, but that is the Veterans Day holiday, so the display period is extended by one additional day.
- December 7, 2007 (E-60). Counties begin mailing military and overseas ballots.
- December 27, 2007 (E-40). The Secretary of State begins mailing ballot pamphlets to voters. Counties begin mailing sample ballots.

In prior years when the Legislature and the Governor have chosen to provide for a later qualification date, they've chosen to reduce the approximately 26 days the statute affords to the Attorney General, the Legislative Analyst, Legislative Counsel, the Secretary of State, the translators and others to do their work.

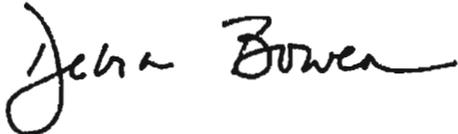
Waiving the statutory deadline by which measures must be enacted in order to appear on the February 5, 2008, Presidential Primary Election ballot will require the ballot labels, ballot titles and summaries, analyses, text of the proposed laws, ballot arguments, translations and all of the other work noted in this letter to be completed on an extremely expedited basis. To successfully include a measure on the February 5, 2008, Presidential Primary Election ballot after the September 27, 2007, qualification date, everyone involved in the process will need to work in coordination to ensure that public display, printing, and mailing deadlines are met.

This type of coordination has successfully taken place in the past, which is why I believe it can take place this year as well. (Should the Legislature and Governor choose to exercise their authority to waive certain provisions of law, I believe a measure that is chaptered by October 16, 2007, could be placed in the February 5, 2008, Presidential Primary Election ballot pamphlet.

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If you have any questions or need additional information, please call me at (916) 653-7244 or have your staff contact my Deputy of Legislative and Constituent Affairs, Ronda Paschal, at (916) 653-6774.

Sincerely,

A handwritten signature in black ink that reads "Debra Bowen". The signature is written in a cursive style with a large, looping initial "D".

Debra Bowen
Secretary of State

cc: The Honorable Dick Ackerman, Senate Minority Leader
The Honorable Mike Villines, Assembly Minority Leader
Members of the California State Legislature

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