



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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December 7, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09204

TO: All County Clerks/Registrars of Voters and Proponents

FROM:


Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1404, Related to Political Contributions

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**IMPOSES POLITICAL CONTRIBUTION
RESTRICTIONS ON PUBLIC EMPLOYEE
LABOR ORGANIZATIONS. INITIATIVE STATUTE.**

The proponents of the above-named measure are:

Mark W. Bucher
Dawn M. Wildman
Allan R. Mansoor
Lawrence D. Sand
Mark J. Meckler
Bucher & Palmer, LLP
18002 Irvine Blvd., Suite 108
Tustin, CA 92780

(714) 573-2201

#1404

**IMPOSES POLITICAL CONTRIBUTION
RESTRICTIONS ON PUBLIC EMPLOYEE
LABOR ORGANIZATIONS. INITIATIVE STATUTE.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required:433,971
California Constitution, Article II, Section 8(b)
2. Official Summary Date:Friday, 12/04/09
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Friday, 12/04/09
 - b. Last day Proponent can circulate and file with the county.
All sections are to be filed at the same time within each
county. (Elec. Codes §§ 336, 9030(a)). Monday, 05/03/10
 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (Elec. Code § 9030(b)).....Thursday, 05/13/10

(If the Proponent files the petition with the county on a date prior to
05/03/10, the county has eight working days from the filing of the petition
to determine the total number of signatures affixed to the petition and to
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures
and notifies the counties.....Saturday, 05/22/10*
 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(Elec. Code § 9030(d)(e)).....Monday, 07/05/10

* Date varies based on the date of county receipt.

INITIATIVE #1404

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/22/10, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 477,369 or less than 412,273 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 412,273 and 477,369 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)).....Thursday, 07/15/10*
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). Thursday, 08/26/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/15/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033).....Monday, 08/30/10*

*Date varies based on the date of county receipt.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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December 4, 2009

FILED
In the office of the Secretary of State
of the State of California

DEC 07 2009

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

Honorable Debra Bowen
Secretary of State of the State of California
State of California Elections
1500 11th Street, 5th Floor
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Re: Initiative 09-0055, "The Public Employee Paycheck Protection Act."

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we sent our title and summary for the above-referenced proposed initiative to the proponent. A copy of that title and summary and text of the proposed measure is enclosed.

Please contact me if you have any questions. Thank you.

Sincerely,


KRYSTAL M. PARIS
Initiative Coordinator

For EDMUND G. BROWN JR.
Attorney General

Proponents:

Mark W. Bucher
Dawn M. Wildman
Allan R. Mansoor
Lawrence D. Sand
Mark J. Meckler
Bucher & Palmer LLP
18002 Irvine Blvd., Ste. 108
Tustin, CA 92780

Date: December 4, 2009
Initiative 09-0055

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

IMPOSES POLITICAL CONTRIBUTION RESTRICTIONS ON PUBLIC EMPLOYEE

LABOR ORGANIZATIONS. INITIATIVE STATUTE. Prohibits public employee labor organizations from using member dues or nonmember fees for disbursements to political committees unless the employee provides prior annual written consent on a particular form.

Does not apply to dues or fees collected for charitable organizations, health care insurance, or other purposes directly benefitting the public employee. Requires public employee labor organizations to maintain and, upon request, submit to designated government authority, records of authorization, employee funds withheld and transferred to political committees, which records are not subject to disclosure under Public Records Act. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably minor state and local government implementation costs, potentially offset in part by revenues from fines and/or fees. (09-0055)

October 12, 2009

09-0055

Office of the Attorney General
Initiative Coordinator
1300 I Street
Sacramento, CA 95814

RECEIVED

OCT 13 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Initiative Coordinator:

Pursuant to Elections Code Section 9002 and 9004, we hereby request that your office prepare a title and summary of the chief purpose and points of the attached measure. The text of the amended measure is enclosed, along with a check in the amount of \$200.

Attached is a signed statement certifying that we will not willfully allow initiative signatures to be used for purposes other than qualification of the measure as required by Election Code Section 9608. Also attached is the addresses at which we are registered to vote.

Please direct all correspondence and inquiries regarding this measure to:

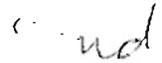
Bucher & Palmer LLP
18002 Irvine Blvd., Ste 108
Tustin, CA 92780
Phone: (714)573-2201
Fax: (714)619-6878

Sincerely,


Mark W. Bucher
Proponent


Dawn M. Wildman
Proponent

Allan R. Mansoor
Proponent

Lawrence D. Sand
Proponent



Mark J. Meekies
Proponent

Enclosures

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION 1. Title. This measure shall be known as "The Public Employee Paycheck Protection Act."

SEC. 2. Findings and Declarations.

The people of the state of California find and declare that:

- (a) Public employees are generally required to join a labor organization or pay fees to the labor organization in lieu of membership.
- (b) Public employee labor organizations operate through dues or fees deducted from their members' salaries which are paid from public funds.
- (c) Routinely these dues or fees are used in part to support the political activities of the labor leaders in support of state and local legislative candidates and ballot measures. Public employees often find their dues or fees used to support political candidates or ballot measures they do not agree with.
- (d) It is fundamentally unfair to force public employees to give money to political activities or candidates they do not support.
- (e) Because public money is involved, the public has a right to ensure that public employees have a right to approve the use of their dues or fees to support the political objectives of their labor organization.
- (f) The State of California has a strong interest in avoiding the reality or appearance of government favoritism or entanglement with partisan politics.
- (g) The State of California also has a strong interest in affording its employees the opportunity to choose which political activities or candidates to support.
- (h) To ensure that public employees have a say whether their dues or fees may be used for political campaign purposes, it is fair and just to require that their consent be obtained in advance.

SEC. 3. Purpose and Intent. In enacting this measure, it is the intent of the people of the State of California to guarantee the right of public employees to have a say whether their dues and fees may be used for political campaign purposes.

SEC 4. Chapter 5, Article 8 (commencing with §85900) is added to Title 9 of the Government Code to read:

85900. (a) No public employee labor organization may use or obtain any portion of dues, agency shop fees, or any other fees paid by members of the labor organization, or individuals who are not members, through payroll deductions or directly, for disbursement to a committee as defined in section 82013 except upon the written consent of the member or individual who is not a member received within the previous 12 months on a form described by subdivision (c) signed by the member or non-member and an officer of the union.

(b) Subdivision (a) does not apply to any dues or fees collected from members of the labor organization, or individuals who are not members, for the benefit of charitable organizations organized under Title 26 United States Code section 501(c)(3), or for health care insurance, or similar purposes intended to benefit directly the specific member of the labor organization or individual who is not a member or their immediate families.

(c) The authorization referred to in subdivision (a) shall be made on the following form, the sole purpose of which is the documentation of such authorization. The form's title shall read, in at least 24-point bold type, "Consent for Political Use of Dues/Fees or Request to Make Political Contributions" and shall state, in at least 14-point bold type, the following specific text.

"Signing this form authorizes your union to use the amount of \$ __.00 from each of your dues or agency shop fee payments during the next twelve months as a political contribution or expenditure."

Signing this form requests your union to make a deduction of \$ __.00 from each of your dues or agency shop fee payments during the next twelve months as a political contribution to the {name of committee}).

Check applicable box.

[Name of Employee]

[Union Officer]

[Name of Union]

[Date]

[Date]

[Signature]

[Signature]

(d) Any public employee labor organization that uses any portion of dues, agency shop fees, or other fees to make contributions or expenditures under subdivision (a) shall maintain records that include a copy of each authorization obtained under subdivision (c), the amounts and dates funds were actually withheld, the amounts and dates funds were transferred to a committee, and the committee to which the funds were transferred. Records maintained under this subdivision shall not include the employee's home address or telephone number

(e) Copies of all records maintained under subdivision (d) shall be sent to the commission on request but shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with section 6250) of Division 7, Title 1 of the Government Code.).

(f) Individuals who do not authorize contributions or expenditures under subdivision (a) may not have their dues, agency shop fees, or other fees raised in lieu of the contribution or expenditure.

(g) If the dues, agency shop fees, or other fees referred to in subdivisions (a) and (d) included an amount for a contribution or expenditure, the dues, agency shop fees, or other fees shall be reduced by that amount for any individual who does not sign an authorization as described under subdivision (a).

(h) The requirements of this section may not be waived by the member or individual and waiver of these requirements may not be made a condition of employment or continued employment.

(i) For the purposes of this section, "agency shop" has the same meaning as defined in subdivision (a) of Section 3502.5 of the Government Code on October 15, 2009.

(j) For the purposes of this section, "public employee labor organization" shall mean any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employees of a public entity concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(k) For the purposes of this section, "public entity" shall mean the state and any agency or political subdivision of the state, including but not limited to cities, counties, cities and counties (including charter cities, charter counties, and charter cities and counties), municipal corporations, school districts, special districts, local and regional agencies, and joint powers agencies.

SEC. 5. This measure shall be liberally construed to accomplish its purposes.

SEC. 6. In the event that this measure and another measure or measures relating to the consent of public employees to the use of their payroll deductions or dues being used for political contributions or expenditures without their consent shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SEC. 7. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions are severable.

SEC. 8. If this measure is approved by the voters but is superseded by another measure on the same ballot receiving a higher number of votes and deemed in conflict with this measure, and the conflicting measure is subsequently held invalid, it is the intent of the voters that this measure become effective.

SEC. 9. This measure may be amended to further its purposes by a bill passed by a two-thirds vote of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.