



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

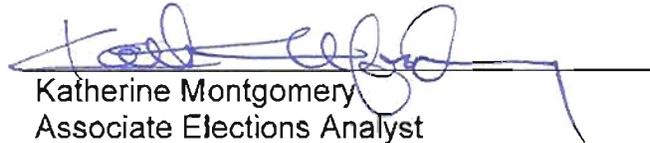
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

January 25, 2010

County Clerk/Registrar of Voters (CC/ROV) Memorandum #10035

TO: All County Clerks/Registrars of Voters and Proponent

FROM:


Katherine Montgomery
Associate Elections Analyst

RE: Initiative: 1441, Related to Taxes

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:

**INCREASES LEGISLATIVE VOTE REQUIREMENT
TO TWO-THIRDS FOR STATE LEVIES AND CHARGES.
IMPOSES ADDITIONAL REQUIREMENT FOR VOTERS TO
APPROVE LOCAL LEVIES AND CHARGES WITH LIMITED
EXCEPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Allan Zaremborg
c/o Steve Lucas
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
1415 L Street, Suite 1200
Sacramento, CA 95814

(916) 446-6752

#1441

**INCREASES LEGISLATIVE VOTE REQUIREMENT
TO TWO-THIRDS FOR STATE LEVIES AND CHARGES.
IMPOSES ADDITIONAL REQUIREMENT FOR VOTERS TO
APPROVE LOCAL LEVIES AND CHARGES WITH LIMITED
EXCEPTIONS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required:694,354
California Constitution, Article II, Section 8(b)
2. Official Summary Date:Friday, 01/22/10
3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (Elec. Code § 336) Friday, 01/22/10
 - 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, 06/21/10
 - 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, 07/01/10

(If the Proponent files the petition with the county on a date prior to
06/21/10, 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, 07/10/10*
 - 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)).....Friday, 08/20/10

* Date varies based on the date of county receipt.

INITIATIVE #1441

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 07/10/10, 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 763,790 or less than 659,637 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 659,637 and 763,790 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (Elec. Code §§ 9030(f)(g), 9031(a))Monday, 08/30/10*

- 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, 10/14/10

(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 08/30/10, 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, 10/18/10*

*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



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 445-9555
Telephone: (916) 445-4752
Facsimile: (916) 324-8835
E-Mail: Krystal.Paris@doj.ca.gov

January 22, 2010

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

JAN 22 2010

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

Debra Bowen, Secretary of State
By 
Deputy Secretary of State

Attention: Ms. Katherine Montgomery
Associate Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code, section 9004, you are hereby notified that on this day we sent our title and summary for each of the following proposed initiatives to the respective proponents:

- 09-0089, "Taxpayer Protection Act of 2010."
- 09-0092, RE: Taxes [V-1.]
- 09-0093, RE: Taxes [V-2.]

A copy of the title and summary and text of each initiative 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

January 22, 2010

Page 2

Proponents:

09-0089

Jon Coupal, President

Howard Jarvis Taxpayers Association

921 11th Street, Suite 1201

Sacramento, CA 95814

09-0092

Josiah Keane

c/o Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP

1415 L Street, Suite 1200

Sacramento, CA 95814

(916) 446-6752

Attn.: Steve Lucas

09-0093

Allan Zarembeg

c/o Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP

1415 L Street, Suite 1200

Sacramento, CA 95814

(916) 446-6752

Attn.: Steve Lucas

Date: January 22, 2010
Initiative 09-0093

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

INCREASES LEGISLATIVE VOTE REQUIREMENT TO TWO-THIRDS FOR STATE LEVIES AND CHARGES. IMPOSES ADDITIONAL REQUIREMENT FOR VOTERS TO APPROVE LOCAL LEVIES AND CHARGES WITH LIMITED EXCEPTIONS.

INITIATIVE CONSTITUTIONAL AMENDMENT. Increases legislative vote requirement to two-thirds for state levies and charges, with limited exceptions, and for certain taxes currently subject to majority vote. Changes Constitution to require voters to approve, either by two-thirds or majority, local levies and charges with limited exceptions. Summary of estimate by

Legislative Analyst and Director of Finance of fiscal impact on state and local government:

Potentially major decrease in state and local revenues and spending, depending upon future actions of the Legislature, local governing bodies, and local voters. (09-0093.)

November 23, 2009

09 - 0093

VIA PERSONAL DELIVERY

The Honorable Edmund G. Brown, Jr.
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED

NOV 23 2009

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment. Enclosed is a check for \$200.00. My residence address is attached.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814. (916) 446-6752, Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Allan Zarembeg, Proponent

Enclosure: Proposed Initiative

SECTION 1 - FINDINGS AND DECLARATIONS OF PURPOSE,

The People of the State of California find and declare that:

(a) Since the people overwhelmingly approved Proposition 13 in 1978, the Constitution of the State of California has required that increases in state taxes be adopted by not less than two-thirds of the members elected to each house of the Legislature.

(b) Since the enactment of Proposition 218 in 1996, the Constitution of the State of California has required that increases in local taxes be approved by the voters.

(c) Despite these limitations, California taxes have continued to escalate. Rates for state personal income taxes, state and local sales and use taxes, and a myriad of state and local business taxes are at all-time highs. Californians are taxed at one of the highest levels of any state in the nation.

(d) Recently, the Legislature added another \$12 billion in new taxes to be paid by drivers, shoppers, and anyone who earns an income.

(e) This escalation in taxation does not account for the recent phenomenon whereby the Legislature and local governments have disguised new taxes as "fees" in order to extract even more revenue from California taxpayers without having to abide by these constitutional voting requirements. Fees couched as "regulatory" but which exceed the reasonable costs of actual regulation or are simply imposed to raise revenue for a new program and are not part of any licensing or permitting program are actually taxes and should be subject to the limitations applicable to the imposition of taxes.

(f) In order to ensure the effectiveness of these constitutional limitations, this measure also defines a "tax" for state and local purposes so that neither the Legislature nor local governments can circumvent these restrictions on increasing taxes by simply defining new or expanded taxes as "fees."

SECTION 2 - SECTION 3 OF ARTICLE XIII A OF THE CALIFORNIA CONSTITUTION IS AMENDED TO READ:

SEC. 3. (a) From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto. Any change in state statute which results in any taxpayer paying a higher tax whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

(b) As used in this section, "tax" means any levy, charge, or exaction of any kind imposed by the State, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of conferring the benefit or granting the privilege to the payor.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the State of providing the service or product to the payor.

(3) A charge imposed for the reasonable regulatory costs to the State incident to issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of state property, or the purchase, rental, or lease of state property, except charges governed by Section 15 of Article XI.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or the State, as a result of a violation of law.

(c) Any tax adopted after January 1, 2010, but prior to the effective date of this Act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this Act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.

(d) The State bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 3 - SECTION 1 OF ARTICLE XIII C OF THE CALIFORNIA CONSTITUTION IS AMENDED TO READ:

SECTION 1. Definitions. As used in this article:

(a) "General tax" means any tax imposed for general governmental purposes.

(b) "Local government" means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(c) "Special district" means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with

limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) "Special tax" means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.

(e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof.

(4) A charge imposed for entrance to or use of local government property, or the purchase, rental, or lease of local government property.

(5) A fine, penalty, or other monetary charge imposed by the judicial branch of government or a local government, as a result of a violation of law.

(6) A charge imposed as a condition of property development.

(7) Assessments and property-related fees imposed in accordance with the provisions of Article XIII D.

The local government bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity.

SECTION 4 - CONFLICTING MEASURES.

In the event that this measure and another measure or measures relating to the legislative or local votes required to enact taxes or fees shall appear on the same statewide election ballot, the provisions of the other measure or 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 measure or measures relating to the legislative or local votes required to enact taxes or fees shall be null and void.

SECTION 5 - SEVERABILITY.

If any provision of this Act, or any 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 of this Act are severable.