

County Initiative Measure Process & Timelines – County's Role

Decision Points for the Board of Supervisors

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Governing Law – Elections Code §§ 9100, *et seq.* Steps:

- Notice of Intention to Circulate Petition with Written Text of Initiative filed with County Elections Official 1) GPA – Delete Nodes, Voter Approval 2) GPA – Ag Chemical Hazards Buffer
- Preparation of County Counsel Ballot Title & Summary both
- Publication of Notice of Intention & County Counsel Ballot Title & Summary both
- Circulation of Petition to Registered Voters in the County – Up to 180 days from receipt of Ballot Title & Summary both
- Submission of Petition with Signatures to Elections Official – 30 business days to review and validate signatures 1) 4, 092 signatures submitted May 2, 2022; 2) pending
- Certification of Sufficiency – at least 2,060 valid signatures required
- Presentation to Board of Supervisors at next regularly scheduled meeting to adopt or submit to voters



Board of Supervisors Actions At Next Regular Board Meeting After Petition Certified as Sufficient is Submitted:

- Adopt the measure as submitted without alteration at the meeting at which the certified petition is submitted, or within 10 days thereafter
- Order Election - Submit the measure at the next statewide election more than 88 days later
- Order an Elections Code § 9111 impact report to be presented within 30 days of certification of sufficiency, then either:
 - Adopt the measure as submitted within 10 days, or
 - Order an election



Timing of Election – Elections Code § 1405

- Board of Supervisors must call for the election at least 88 days before the next statewide election
 - For November 8 General Election: August 12, 2022
 - Likely to have at least one initiative measure on the agenda for June 14, 2022 meeting
 - Last regularly scheduled Board meeting before deadline: August 9, 2022
- Option to call special election for a date at least 88 days and no more than 103 days later – with full cost of the special election paid by County



Elections Code § 9111 Impact Report

- May be ordered at any time during circulation of petition
- Contents to include:
 - Fiscal impacts
 - Effect on internal consistency with general and specific plans, housing element and zoning
 - Effect on use of land and ability to meet regional housing needs
 - Impact on infrastructure funding including transportation, schools, parks and open space
 - Impact on ability to attract & retain business and employment
 - Any other matters requested by the Board of Supervisors



Elections Code § 9111 Impact Report

- Purpose: inform the Board of Supervisors and the voting public of potential consequences if measure is adopted
- Must be “accurate, fair, and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure,” Government Code § 54964 (c)
- Staff Recommends that Board of Supervisors authorize CAO to contract for Elections Code § 9111 Report for the General Plan Health & Safety Code Policy HS-6.9 – 3.5-mile buffer initiative with a qualified consulting firm selected by the CAO



County and Supervisors Role During the Election

- The county **may** express an opinion on the merits of a proposal. *Choice-in-Education League v. Los Angeles Unified School Dist.* (1993) 17 Cal. App. 4th 415; Elections Code § 9162.
- The county **cannot campaign** for or against an initiative. *Stanson v. Mott* (1976) 17 Cal. 3d 206; Govt. Code §54964.
 - Campaign materials are those that advocate or promote a single viewpoint with the object of influencing the voters on a particular issue. *League of Women Voters of California v. Countywide Criminal Justice Coordination Committee* (1988) 203 Cal. App. 3d 529, 555.
- A county may provide the electorate with educational and informational materials. This is a fine line. See *Vargas v. City of Salinas* (2009) 46 Cal. 4th 1 for examples of permissible activities.
- Public entities are not “foreclosed from providing objective information on a proposed ballot measure.” *Stanson v. Mott*, supra, 17 Cal. 3d at p. 221.



Acceptable v. Impermissible Activities

- **Impermissible** activities include, but are not limited to:
 - Purchasing bumper stickers, posters, advertising ‘floats,’ or television and radio ‘spots’ unquestionably constitutes improper campaign activity. *Vargas*, 46 Cal. 4th at 24, 32.
 - The dissemination, at public expense, of campaign literature prepared by private proponents or opponents of a ballot measure constitutes improper campaign activity. *Vargas*, 46 Cal. 4th at 24.



Acceptable v. Impermissible Activities

- **Permissible** activities include, but are not limited to:
 - The Board of Supervisors may, in the course of a regular Board meeting, take a position on a ballot measure since the meeting is open to the public and citizens may express their views. *Choice-in-Education League v. Los Angeles Unified School Dist.* (1993) 17 Cal. App. 4th 415; Elections Code § 9162.
 - A County department may present staff reports and other analyses at regular meetings of the Board of Supervisors that demonstrate the department's view of the merits of a ballot measure to assist the Board of Supervisors in its decision making on matters within the Board's purview (such as budget allocations). *Vargas*, 46 Cal. 4th at 36-37; Elections Code § 9111.
 - A County department may respond to citizen inquiries about a ballot measure in a way that provides a fair presentation of the facts about the measure and the department's view of the merits of the ballot measure. *Vargas*, 46 Cal. 4th at 25.
 - A representative from a County department may be authorized to accept invitations from private or public organizations to present the department's view of a ballot measure at a meeting of the private or public organization. *Vargas*, 46 Cal. 4th at 36.



Acceptable v. Impermissible Activities

- Style, Tenor, and Timing Test (Fact Intensive)
 - The determination of the propriety or impropriety of expenditure depends upon a careful consideration of such factors as a style, tenor and timing of the publication; no hard and fast rule governs every case. See *Stanson v. Mott*, supra, at pp. 221-222.
 - Was the information delivered in a manner consistent with established practice regarding regular County or departmental public communications channels?
 - Was the information delivered in a way that emphasizes facts and does not use inflammatory language or argumentative rhetoric?
 - Communications should not encourage the public to adopt the department or County's views, vote one way or another, or take any other action in support of or in opposition to the ballot measure. *Vargas*, 46 Cal. 4th at 34, 40.



Board of Supervisors Arguments For or Against County Ballot Measures

- Elections Code §§ 9162 - 9166
- “The board of supervisors or any member or members of the board . . . may file a written argument for or against any county measure. An argument shall not exceed 300 words in length.” § 9162 (a).
- “If more than one argument for or more than one argument against any county measure is submitted to the county elections official within the time prescribed, the county elections official shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument, the county elections official shall give preference and priority in the order named to the arguments of the following:
 - (1) The board of supervisors or a member or members of the board.
 - (2) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
 - (3) Bona fide associations of citizens.
 - (4) Individual voters who are eligible to vote on the measure.” § 9166 (a)



Board of Supervisors Arguments For or Against County Ballot Measures

- Multiple supervisors or individual supervisors may submit separate opposing arguments for or against a ballot measure.
- Any argument for or against a ballot measure by a majority of the members of the Board of Supervisors must be approved in accordance with the Brown Act – as an action item on a published agenda to be taken at an open public meeting subject to public comment.
- Individual supervisors may join arguments submitted by other proponents or opponents for or against a ballot measure, with up to five signatories per argument. § 9164

