

12-28-1999

Fees, Taxes. New Definitions, Vote Requirements.

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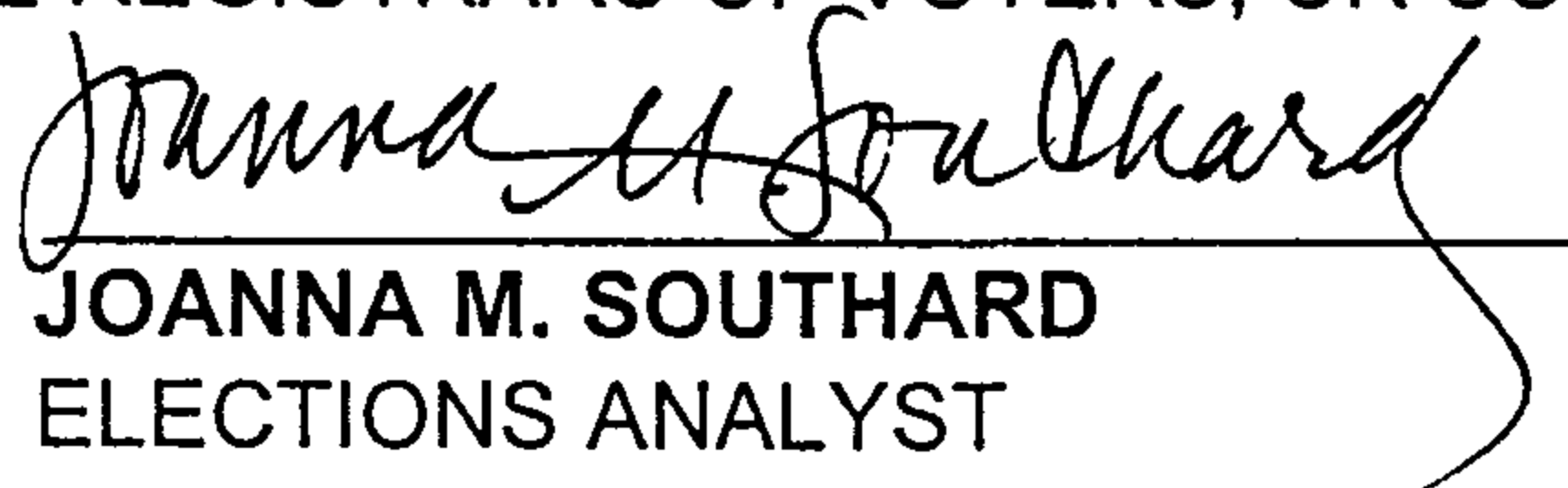
BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
e-mail: comments@ss.ca.gov

December 28, 1999

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (99321)

FROM:


JOANNA M. SOUTHARD
ELECTIONS ANALYST

SUBJECT: INITIATIVE #874

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:

**FEES, TAXES. NEW DEFINITIONS,
VOTE REQUIREMENTS.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponents of the above-named measure are:

Larry McCarthy, Fred L. Main, and
Gavin McHugh
c/o Nielsen, Merksamer, Parrinello,
Mueller & Naylor LLP
770 L Street, Suite 800
Sacramento, CA 95814
(916) 446-6752

RECEIVED
JAN 04 2000
LIST BY

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#874
FEES, TAXES. NEW DEFINITIONS,
VOTE REQUIREMENTS.
INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 670,816
California Constitution, Article II, Section 8(b)

2. Official Summary Date:..... Tuesday, 12/28/99
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Tuesday, 12/28/99

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Friday, 5/26/00

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b)).....Thursday, 6/8/00

(If the Proponent files the petition with the county on a date prior to 5/26/00 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) (EC §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 (EC §9030(c))..... Saturday, 6/17/00*

 - 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
(EC §9030(d)(e))Monday, 7/31/00

* Date varies based on receipt of county certification.

INITIATIVE #874
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 6/17/00 the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

- f. If the signature count is more than 461,003 or less than 398,139 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 398,139 and 461,003 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, 8/10/00*

- 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 (EC §9031(b)(c)). Friday, 9/22/00

(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 8/10/00, the last day is no later than the thirtieth working day after the county's receipt of notification). EC §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 (EC §9031(d); 9033).....Tuesday, 9/26/00*

* Date varies based upon receipt of county certification.

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) 123 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. 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. A brief summary is attached for your reference.
- 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.

Enclosures

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 1
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 445-9555

Facsimile: (916) 323-2137
(916) 324-5490

December 28, 1999

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

DEC 28 1999

BILL JONES, Secretary of State

By 
Deputy Secretary of State

Bill Jones
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, California 95814

RE: INITIATIVE TITLE AND SUMMARY
SUBJECT: FEES, TAXES. NEW DEFINITIONS, VOTE REQUIREMENTS.
INITIATIVE CONSTITUTIONAL AMENDMENT.
FILE NO: SA1999RF0060

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed our title and summary to the proponents of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the names and address of the proponents are as stated on the declaration of service.

Sincerely,



DIANE CALKINS
Initiative Coordinator

For BILL LOCKYER
Attorney General

DC:tk
Enclosures

Date: December 28, 1999
File No.: SA1999RF0060

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

FEES, TAXES. NEW DEFINITIONS, VOTE REQUIREMENTS. INITIATIVE

CONSTITUTIONAL AMENDMENT. Redefines as taxes any compulsory fees enacted by state or local government after July 1, 1999 to monitor, study or mitigate societal or economic effects of activity where such fees impose no regulatory obligation on the payor. Requires two-thirds vote of Legislature to approve such state fees; majority or two-thirds vote of local electorate for local fees. Excludes certain real property related fees and assessments, regulatory fees not exceeding cost of regulation, monies recoverable as damages, remedial expenses, penalties, and increases due to inflation or increased workload as specified. Summary of estimate by

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

Unknown, but potentially significant, reduction in future state and local fee revenues as a result of classifying more governmental revenues as taxes.

SA1999RF0060

November 2, 1999

RECEIVED

NOV - 5 1999

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary
Initiative Constitutional Amendment
"Two-Thirds Vote Preservation Act of 2000"

Dear Mr. Lockyer:

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: "Two-Thirds Vote Preservation Act of 2000." Enclosed is my check for \$200.00.

My residence address is 5159 RIDGEGATE WAY FAIR OAKS CA

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Nalyor LLP, 770 L Street, Suite 800, Sacramento, California, 95814, (916) 446-6752, ATTN: Richard D. Martland.

Thank you for your assistance.

Sincerely,


Proponent

LARRY MCCARTY

Enclosure: Proposed Initiative

3A1999RF0060

November 2, 1999

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

RECEIVED

NOV - 5 1999

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary
Initiative Constitutional Amendment
"Two-Thirds Vote Preservation Act of 2000"

Dear Mr. Lockyer:

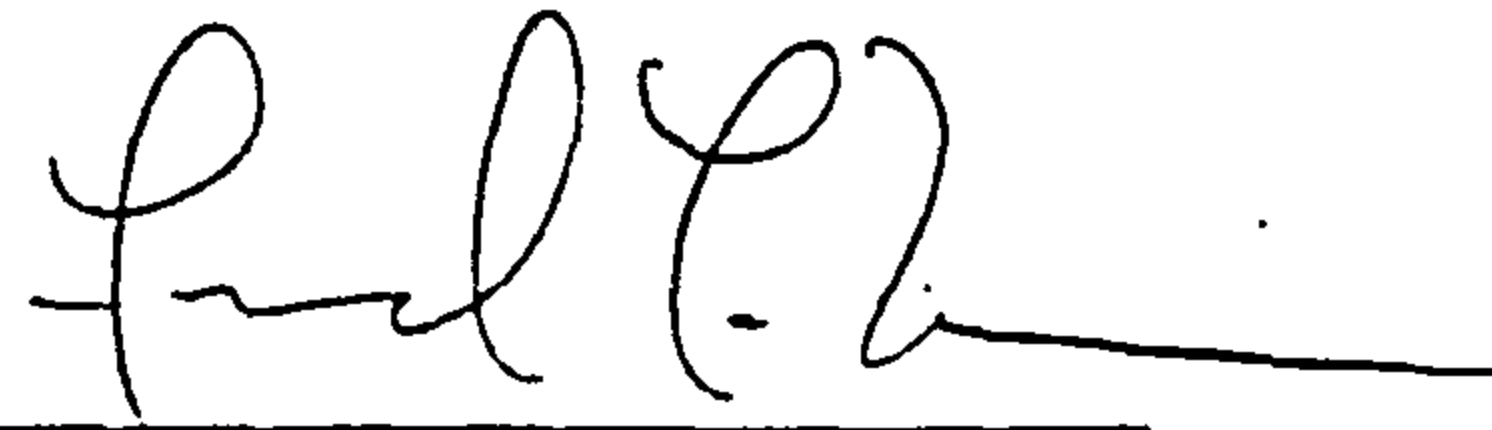
Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment: "Two-Thirds Vote Preservation Act of 2000." Enclosed is my check for \$200.00.

My residence address is 3322 GROSBEAK CT DAVIS, CA

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor LLP, 770 L Street, Suite 800, Sacramento, California, 95814, (916) 446-6752, ATTN: Richard D. Martland.

Thank you for your assistance.

Sincerely,



Proponent

FRED L. MAIN

Enclosure: Proposed Initiative

SA1999RF0060

November 2, 1999

RECEIVED
NOV - 5 1999

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary
Initiative Constitutional Amendment
"Two-Thirds Vote Preservation Act of 2000"

Dear Mr. Lockyer:

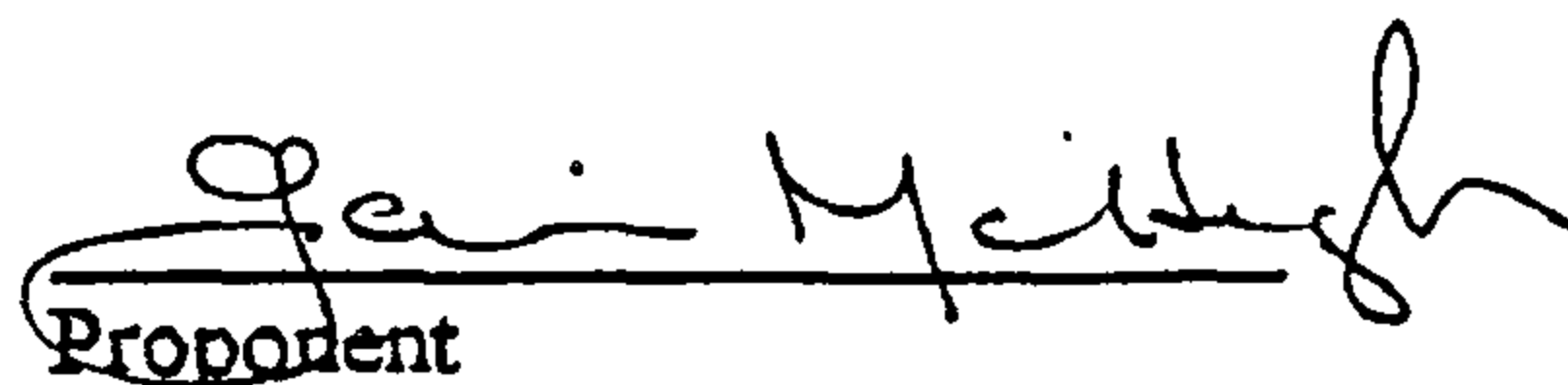
Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative constitutional amendment: "Two-Thirds Vote Preservation Act of 2000." Enclosed is my check for \$200.00.

My residence address is 13575 Moss Rock DR, Auburn, CA.
95602

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Nalyor LLP, 770 L Street, Suite 800, Sacramento, California, 95814, (916) 446-6752, ATTN: Richard D. Martland.

Thank you for your assistance.

Sincerely,


Proponent

Gavin McHugh

Enclosure: Proposed Initiative

Two-Thirds Vote Preservation Act of 2000

SECTION 1. Title

This measure shall be known and may be cited as the "Two-Thirds Vote Preservation Act of 2000."

SECTION 2. Findings and Declaration of Purpose

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

(a) Article XIII A, section 3 of the California Constitution, prohibits the California Legislature from imposing a state tax without approval by a two-thirds vote of the members of each house.

(b) Article XIII C, sections 2(b) and 2(d) of the California Constitution prohibit local governments from imposing a general tax without approval by a majority vote of the people or a special tax without approval by a two-thirds vote of the people.

(c) These vote requirements do not apply to the imposition of legitimate fees.

(d) There have been increasing attempts by the state and local governments to disguise new taxes as fees in order to avoid the vote requirements.

(e) In 1997 the California Supreme Court in the case of Sinclair Paint Company v. State Board of Equalization defined a fee in such manner as to unreasonably broaden the purposes for which fees can be imposed.

(f) The breadth of the Supreme Court's decision will encourage the use of fees to avoid the vote requirements of Articles XIII A and XIII C and significantly weaken the tax protections created by these propositions.

(g) The distinction between a fee and a tax was reasonably clear before the Supreme Court decision.

(h) In order to preserve that distinction and prevent avoidance of the two-thirds legislative vote requirement of Article XIII A and the majority and two-thirds popular vote requirements of Article XIII C, it is necessary to amend the Constitution.

SECTION 3. Section 3 of Article XIII A of the California Constitution is amended to read:

Section 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in the method 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. For purposes of this section, "state taxes" do not include an "assessment" or "fee" as defined in Article XIII D, sections 2(b) and 2(e), real property development fees, or regulatory fees that do not exceed the reasonable cost of regulating the activity for which the fee is charged. Provided, however, compulsory fees enacted after July 1, 1999 to monitor, study or mitigate the societal or economic effects of an activity, and which impose no significant regulatory obligation on the fee payor's activity other than the payment of the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for which the fee is charged, shall be deemed state taxes subject to the two-thirds vote requirement of this section. Monies recoverable as damages, remedial expenses or penalties arising from a specific event shall not be deemed taxes or fees.

This section shall not apply to 1) any fee that was authorized by law prior to July 1, 1999, 2) any increase in such fee attributable to inflation, or 3) any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.

SECTION 4. Section 1 of Article XIII C of the California Constitution is amended to read as follows:

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) For purposes of subsections (a) and (d) of this section, "general taxes" and "special taxes" do not include an "assessment" or "fee" as defined in Article XIII D, sections 2(b) and 2(e), real property development fees, or regulatory fees that do not exceed the reasonable cost of regulating the activity for which the fee is charged. Provided, however, compulsory fees enacted after July 1, 1999 to monitor, study or mitigate the societal or economic effects of an activity, and which impose no significant regulatory obligation on the fee payor's activity other than the payment of the fee, and regulatory fees that exceed the reasonable cost of regulating the activity for which the fee is charged, shall be deemed general or special taxes subject to the majority or two-thirds vote requirements of sections 2(b) and 2(d) of this Article. Monies recoverable as damages, remedial expenses or penalties arising from a specific event shall not be deemed taxes, special taxes, assessments or fees.

This section shall not apply to 1) any fee that was authorized by law prior to July 1, 1999, 2) any increase in such fee attributable to inflation, or 3)

any increase in such fee attributable to increased workload, provided such increased workload is not the result of expansion of the class of activity or activities to which the fee applied prior to July 1, 1999.

SECTION 5. Severability

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 of this Act are severable.