

2-11-2004

LEGISLATIVE VOTING RECORDS.  
CAMPAIGN DISCLOSURE. INITIATIVE  
STATUTE.

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SECRETARY OF STATE  
**KEVIN SHELLEY**  
STATE OF CALIFORNIA

August 18, 2004

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND  
PROponents (04271)

FROM: *Brianna Lierman*  
BRIANNA LIERMAN  
ELECTIONS ANALYST

RECEIVED  
AUG 23 2004

SUBJECT: FAILURE OF INITIATIVE #1035

LIBRARY  
HASTINGS COLLEGE OF THE LAW

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named INITIATIVE STATUTE filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: LEGISLATIVE VOTING RECORDS. CAMPAIGN DISCLOSURE.

SUMMARY DATE: 02/11/04

PROPONENT: Carmen Balber





SECRETARY OF STATE  
**KEVIN SHELLEY**  
STATE OF CALIFORNIA

RECEIVED  
FEB 17 2004  
LIBRARY  
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February 11, 2004

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS AND PROPONENTS  
(04061)

FROM: Brianna Lierman  
Brianna Lierman  
Elections Analyst

SUBJECT: **INITIATIVE #1035**

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:

**LEGISLATIVE VOTING RECORDS. CAMPAIGN DISCLOSURE.  
INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Carmen Balber  
The Foundation for Taxpayer and Consumer Rights  
1750 Ocean Park Boulevard, #200  
Santa Monica, CA 90405-4938

(310) 392-0522

ELECTIONS DIVISION  
1500 11<sup>TH</sup> STREET - 5<sup>TH</sup> FLOOR • SACRAMENTO, CA 95814 • (916) 657-2166 • WWW.SS.CA.GOV

LEGISLATIVE VOTING RECORDS. CAMPAIGN DISCLOSURE.  
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

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1. Minimum number of signatures required:..... 373,816  
California Constitution, Article II, Section 8(b)
  
2. Official Summary Date: ..... Wednesday, 02/11/04
  
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (EC §336)..... Wednesday, 02/11/04
  
  - 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)) ..... Monday, 07/12/04\*
  
  - 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, 07/22/04
  

(If the Proponent files the petition with the county on a date prior to 07/12/04, 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 ..... Saturday, 07/31/04\*\*
  
- 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)) ..... Tuesday, 09/14/04

\*Date adjusted for actual deadline, which falls on a Saturday (EC §15).

\*\*Date varies based on the date of county receipt of verification.

**INITIATIVE #1035**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 07/31/04, 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 411,198 or less than 355,125 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 355,125 and 411,198 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of **all** signatures.....Friday, 09/24/04\*

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))..... Monday, 11/08/04

(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 09/24/04, 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) .....Friday, 11/12/04\*

**NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 2, 2004, GENERAL ELECTION:** This initiative must be certified for the ballot 131 days before the election (June 24, 2003). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions with county elections officials by April 16, 2004. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 2004.

\*Date varies based on receipt of county certification.

## IMPORTANT POINTS

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- 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.

Enclosures

**BILL LOCKYER**  
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

Facsimile: (916) 324-8835  
Phone: (916) 324-5464

February 11, 2004

**FILED**

in the office of the Secretary of State  
of the State of California

FEB 11 2004

KEVIN SHELLEY, Secretary of State

By Gianna Lierman  
Deputy Secretary of State

Kevin Shelley  
Secretary of State  
1500 - 11<sup>th</sup> Street, 5<sup>th</sup> Floor  
Sacramento, California 95814

RE: Initiative Title and Summary  
SUBJECT: LEGISLATIVE VOTING RECORDS.  
CAMPAIGN DISCLOSURE. INITIATIVE STATUTE.  
FILE NO: SA2003RF0079

Dear Mr. Shelley:

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 proponent of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponent, 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 name and address of the proponent is as stated on the declaration of service.

Sincerely,

Handwritten signature of Tricia Knight in black ink.

TRICIA KNIGHT  
Initiative Coordinator

For BILL LOCKYER  
Attorney General

TK/cw  
Enclosures



Date: February 11, 2004  
File No.: SA2003RF0079

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

LEGISLATIVE VOTING RECORDS. CAMPAIGN DISCLOSURE. INITIATIVE STATUTE.

Denies daily salary and reimbursements for legislators when they are eligible but fail to vote; exceptions for excused absences or conflicts of interest. Requires Legislative Counsel to maintain online records of legislators' failure to vote, including cumulative totals and percentages. Requires publication of legislators' non-voting information in ballot pamphlet/sample ballot. Makes public the calendar, including fund raising activities, of legislators and statewide elected officeholders. Requires online disclosure within 24 hours of \$1,000 or more contribution received by state office candidates or state ballot measures. Requires campaign contributors to be categorized by industry. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would result in minor increased costs for state and local governments.

SA2003RF0079



1750 OCEAN PARK BOULEVARD, #200, SANTA MONICA, CA 90405-4938  
TEL: 310-392-0522 • FAX: 310-392-8874 • NET: CONSUMERWATCHDOG.ORG

Trisha Knight  
Initiative Coordinator  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550

I hereby request the preparation of a title and summary for the enclosed proposed initiative measure.

Carmen Balber  
Proponent

**RECEIVED**

DEC 23 2003

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

I, Carmen Balber, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Dated this 17<sup>th</sup> day of December, 2003

Encl: Proponent's Voter Registration Address  
Text of Proposed Initiative Measure  
Check

**The Politician Reform Act of 2004****SECTION 1. Title.**

This Act shall be known as the "Politician Reform Act of 2004."

**SECTION 2. Findings and Declarations.**

The People of California find and declare the following:

- (a) Legislators who refuse to vote for or against legislation are avoiding their duties and do not deserve to be paid.
- (b) The existing laws do not penalize legislators who refuse to vote and do not make transparent enough legislators' non-voting records and fundraising practices.
- (c) Therefore, the People of California declare that politicians who are in attendance but do not vote on legislation should not be paid for that day. In addition, new public disclosures of fundraising practices and voting records are needed for the public to hold their public officials more accountable.

**SECTION 3. Purpose and Intent.**

The People of California enact the Politician Reform Act of 2004 to accomplish the following purposes:

- (a) To compel state legislators to be active participants in the legislative process and fully disclose their votes and campaign contributors.
- (b) To penalize elected officials who fail to fulfill their duty to vote on legislative matters placed before them.
- (c) To ensure that the fundraising practices and voting records of elected officials are transparent and accessible to the citizens of California.
- (d) To create an easily accessible database in which citizens can access legislators' voting records.

**SECTION 4. Chapter 8.5 is added to Title 9 of the Government Code, to read:**

88500. This chapter shall be known and may be cited as the Politician Reform Act of 2004.

**Article 1. No Vote, No Pay**

88501. (a) No Member shall be entitled to any salary, per diem, or other expense allowance for any day in which he or she fails to vote on one or more occasions.

(b) It shall be the responsibility of each Member to notify Legislative Counsel if he or she failed to vote due to an excused absence, as defined in Section 88900(a). Members shall submit a sworn affidavit to Legislative Counsel, under penalty of perjury, for an excused absence.

**Article 2. Politician Transparency**

88550. (a) Each Member's Not Voting Record shall be calculated, updated, and made publicly available by Legislative Counsel, pursuant to Section 10248 of the Government Code, on a weekly and cumulative basis.

- (1) A Member's weekly Not Voting Record shall be calculated beginning with Monday and ending with Sunday of each week of each current legislative session.
- (2) A Member's cumulative Not Voting Record shall be calculated beginning with the start of each current legislative session and ending with the most recent Sunday of each current legislative session.

TEXT OF PROPOSED INITIATIVE MEASURE

(b) The state-sponsored internet sites of each Member shall link to the Member's Not Voting Record maintained by Legislative Counsel.

88551. (a) Local elections officers shall obtain from the Legislative Counsel and designate, in the voter information portion of the sample ballot for Primary and General elections, the most recent cumulative Not Voting Record of those candidates for State Senate or Assembly who are current Members or have been Members in the past six years, in a manner set forth by the Secretary of State.

(b) The Secretary of State shall obtain from the Legislative Counsel and designate, in the voter information portion of the state ballot pamphlet for Primary and General elections, the most recent cumulative Not Voting Record of those candidates for statewide elective office who are current Members or have been Members in the past six years, in a manner set forth by the Secretary of State.

(c) The Secretary of State shall include in the state ballot pamphlet a written explanation of the Not Voting Record and the period of time it covers on the same page in the state ballot pamphlet where the Not Voting Records begin, in a manner set forth by the Secretary of State. Local elections officers shall include in the sample ballot a written explanation of the Not Voting Record and the period of time it covers in a manner set forth by the Secretary of State.

#### Article 3. Donor Transparency

88600. The Secretary of State shall create a system to categorize campaign contributors by industry. The Secretary of State may use the national industry classifications set forth in the North American Industry Classification System (NAICS) if the Secretary determines that the NAICS most accurately categorizes contributor industry or special interest. The Secretary of State shall also include a category for individual contributors, as well as any additional categories not in the NAICS deemed necessary by the Secretary to accurately categorize all contributors.

88601. In addition to any other information reported, any candidate or committee that is required to file a campaign statement or report pursuant to this title shall also include in that statement or report the industry, as determined by the Secretary of State, of each contributor that has given a cumulative amount of one hundred dollars (\$100) or more.

#### Article 4. Public Information

88700. All information obtained, data collected and records created pursuant to this chapter are public documents.

88710. The calendar, including fundraising activities, of each Member and statewide elected official shall be a public document.

#### Article 5. Enforcement

88800. Enforcement of this Act shall be in accordance with chapter 11 of this title.

#### Article 6. Definitions

88900. For the purposes of this chapter:

(a) An "Excused Absence" means when a Member is not present due to illness or a personal, family or other emergency.

TEXT OF PROPOSED INITIATIVE MEASURE

(b) "Fail To Vote" means any instance in which a Member has the right to vote in any legislative committee, subcommittee, or on the Senate or Assembly floor, and he or she does not vote "Aye" or "No," except as provided for in subsections (1), (2) and (3).

- (1) A vote for reconsideration or rule waiver shall not be considered a vote for the purpose of identifying a failure to vote or calculating Not Voting Records pursuant to this chapter.
- (2) A vote on motions and resolutions, or for adjournment on the Senate or Assembly floor, shall not be considered a vote for the purpose of identifying a failure to vote or calculating Not Voting Records pursuant to this chapter.
- (3) The term "fail to vote" does not include:
  - (A) Any instance in which a Member does not vote "Aye" or "No" as a result of an excused absence, as defined in subsection (a).
  - (B) Any instance in which a Member does not vote "Aye" or "No" pursuant to Section 87100.

(c) "Member" means a Senator or Assemblymember elected to, or otherwise holding, a seat in the California Legislature.

(d) A "Not Voting Record" includes all of the following:

- (1) The number of times in each current legislative session a Member failed to vote, as defined in subsection (b);
- (2) The number of times in each current legislative session a Member had the right to vote;
- (3) The number of times in each current legislative session a Member failed to vote expressed as a percentage of the number of times a Member had the right to vote;
- (4) The number of days in each current legislative session that a Member failed to vote and thereby forfeited his or her salary, per diem and other expenses for that day.

SECTION 5. Section 10248 (a) (11) and (12) are added to read:

10248. (a) (11) The Not Voting Record of each Member pursuant to Article 2 of Chapter 8.5 of Title 9 of the Government Code.

(12) Each Member's votes on each measure before the legislature in each current legislative session.

SECTION 6. Sec. 85204 is deleted.

SECTION 7. Section 85309 is amended to read:

85309. (a) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more ~~during an election cycle~~. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

(b) In addition to any other report required by this title, any committee primarily formed to support or oppose one or more state ballot measures that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of one thousand dollars (\$1,000) or more ~~during an election cycle~~. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 24 hours of receipt of the contribution.

~~(c) In addition to any other report required by this title, a candidate for elective state office who is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required~~

TEXT OF PROPOSED INITIATIVE MEASURE

by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.

~~—(d) In addition to any other report required by this title, a committee primarily formed to support or oppose a state ballot measure that is required to file reports pursuant to Section 84605 shall file online or electronically with the Secretary of State a report disclosing receipt of a contribution of five thousand dollars (\$5,000) or more received at any time other than during an election cycle. Those reports shall disclose the same information required by subdivision (a) of Section 84203 and shall be filed within 10 business days of receipt of the contribution.~~

SECTION 8. Section 85500 is amended to read:

85500. (a) In addition to any other report required by this title, a committee, including a political party committee, that is required to file reports pursuant to Section 84605 and that makes independent expenditures of one thousand dollars (\$1,000) or more during an election cycle in connection with a candidate for elective state office or state ballot measure, shall file online or electronically a report with the Secretary of State disclosing the making of the independent expenditure. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed within 24 hours of the time the independent expenditure is made.

(b) An expenditure may not be considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

SECTION 9. Technical Matters

(a) This act shall be liberally construed and applied in order to fully promote its underlying purposes.

(b) The provisions of this act shall not be amended by the Legislature.

(c) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(d) In the event that this measure and another measure or measures relating to campaign contribution disclosure or lawmakers' record of not voting 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 receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the other measure shall be null and void.

