

1-6-1998

"None Of The Above" Ballot Option.

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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

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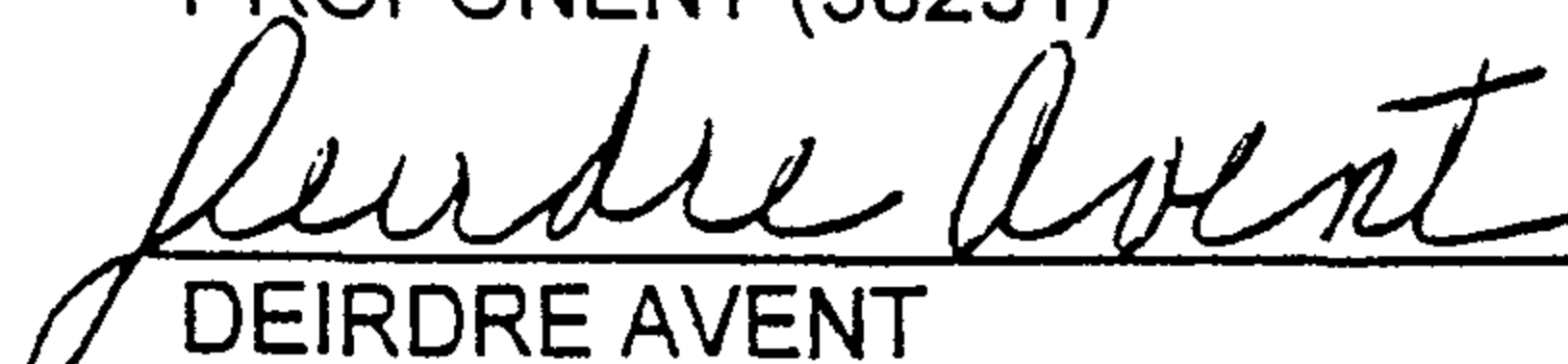
JUN 17 1998

June 17, 1998

#790

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS AND
PROPONENT (98251)

FROM:


DEIRDRE AVENT
Elections Analyst

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures to the hereinafter named proposed 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: "NONE OF THE ABOVE" BALLOT OPTION.

SUMMARY DATE: January 6, 1998

PROPONENT: William K. Gallagher
Debra H. Lamana

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January 6, 1998

TO: ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (98003)

FROM: *Cathy Mitchell*
CATHY MITCHELL
ELECTIONS SPECIALIST

SUBJECT: INITIATIVE #790

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:

**"NONE OF THE ABOVE" BALLOT OPTION.
INITIATIVE STATUTE.**

The proponents of the above-named measure are:

William K. Gallagher
Debra H. Lamana
1750 Ocean Park Boulevard, Suite 200
Santa Monica, California 90405
(310) 392-5304

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2
3

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#790
"NONE OF THE ABOVE" BALLOT OPTION.
INITIATIVE STATUTE.

CIRCULATING AND FILING SCHEDULE

1. Minimum number of signatures required: 433,269
California Constitution, Article II, Section 8(b)

2. Official Summary Date:.....Tuesday, 01/06/98
Elections Code section (EC§) 336

3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336)Tuesday, 01/06/98

 - 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, 06/05/98

 - 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)).....Wednesday, 06/17/98

(If the Proponent files the petition with the county on a date prior to 06/05/98,
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)).....Friday, 06/26/98*

 - 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))..... Friday, 08/07/98

* Date varies based upon receipt of county certification.



INITIATIVE #790

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 06/26/98, 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 476,596 or less than 411,606 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 411,606 and 476,596 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))..... Monday, 08/17/98*

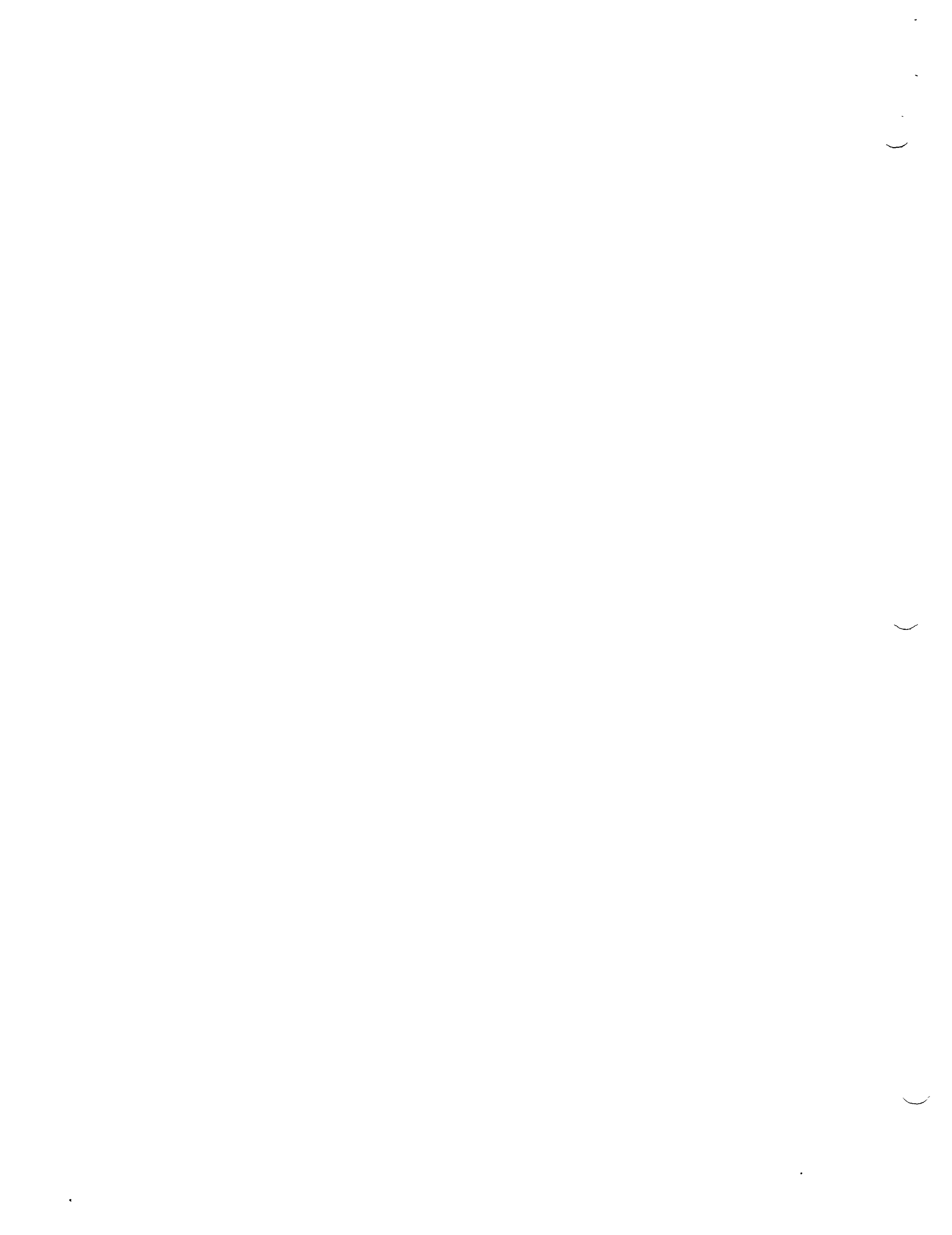
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State (EC §9031(b)(c)).Wednesday, 09/30/98

(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 08/17/98, 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). Sunday, 10/04/98*

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 3, 1998 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 25, 1998). 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 to county elections official by April 17, 1998. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 25, 1998.

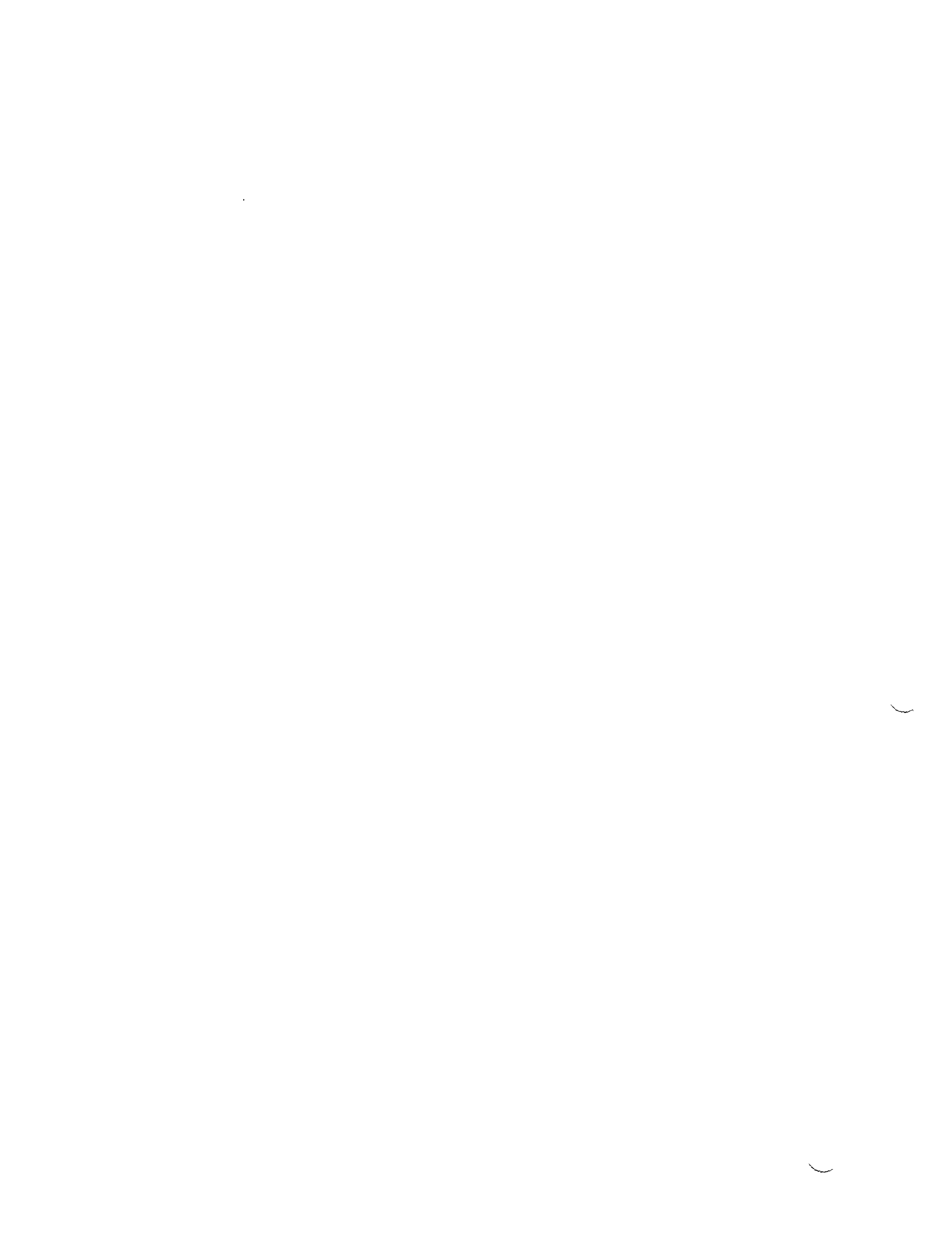
* Date varies based upon receipt of county certification.



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 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. 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



DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
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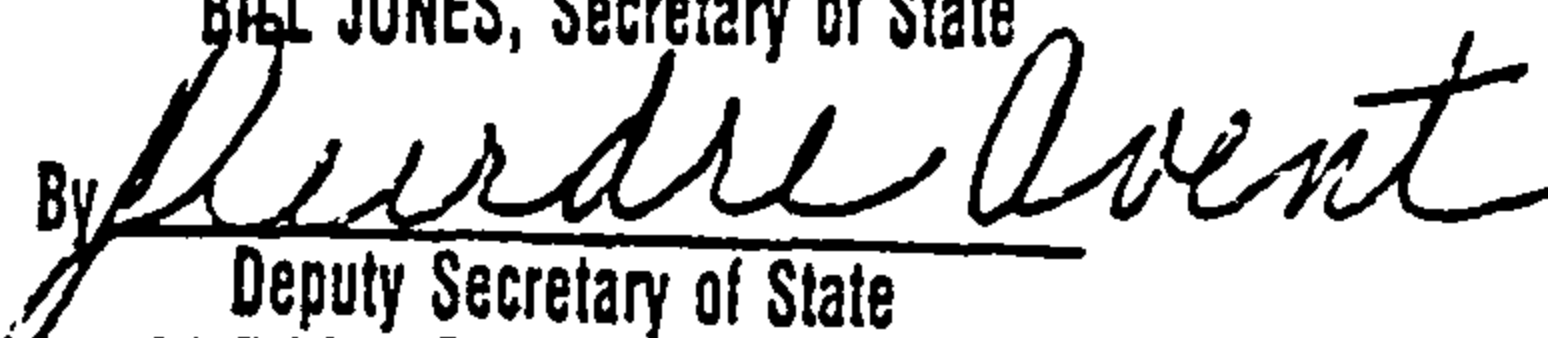
January 6, 1998

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

JAN 06 1998

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

BILL JONES, Secretary of State

By 
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: "NONE OF THE ABOVE" BALLOT OPTION. INITIATIVE STATUTE.
File No: SA 97 RF 0061

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 to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of mailing 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 mailing.

Sincerely,

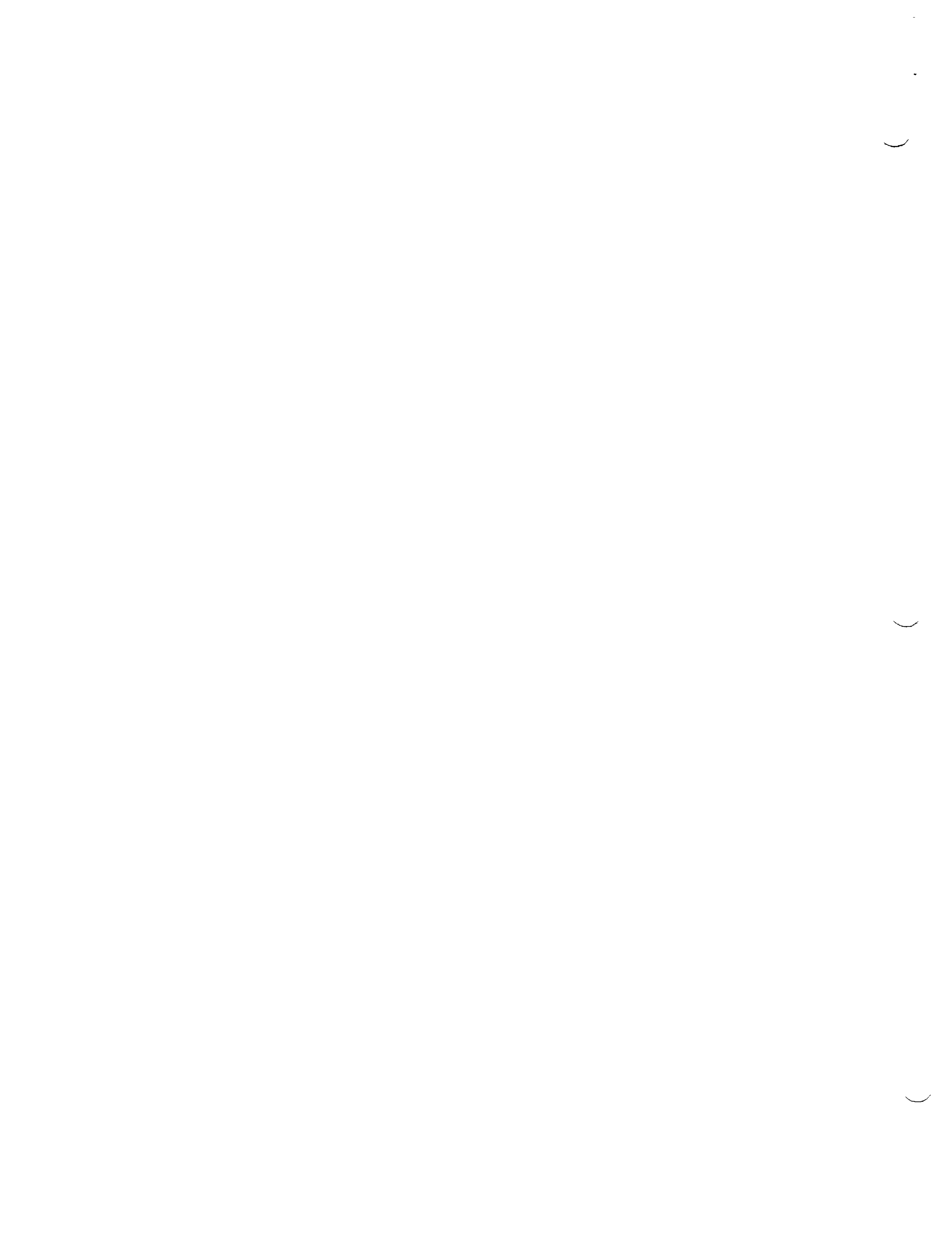
DANIEL E. LUNGREN
Attorney General



MICHELE W. OLSEN
Acting Initiative Coordinator

MWO:fec
Enclosures

cc: William K. Gallagher
Debra H. Lamana



Date: January 6, 1998
File No.: SA 97 RF 0061

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

"NONE OF THE ABOVE" BALLOT OPTION. INITIATIVE STATUTE. In general elections for Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, Insurance Commissioner, Assembly and State Senate, voters shall have option of voting for "None of the Above." If "None of the Above" receives a plurality of votes cast, no candidate may assume office and second election shall be held within 60-90 days. Candidates, in the first election other than write-in candidates, will be ineligible to run in second election. In second election, candidate receiving the most votes shall assume office. Relaxes nomination signature requirements for independent candidates. Summary of fiscal impact by Department of Finance and Legislative Analyst: This measure could result in significant costs to state and county governments. These costs would result if a plurality of voters chose "None of the Above" for any office and a subsequent election was held. Costs could vary from hundreds of thousands to tens of millions of dollars if the subsequent elections were for a legislative seat or statewide office.



SA97RF0061
Amdt. #1-NS

December 18, 1997

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

RECEIVED
DEC 19 1997

Re Proposed Initiative No. SA 97 RF 0061
Amendment to the Proposed Initiative

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Olsen:

The undersigned proponents of Proposed Initiative No. SA 97 RF 0061 hereby request that a certain amendment be made to the proposed measure. Pursuant to our telephone conversation of December 17, 1997, during which you gave your opinion that the proposed change was not substantive, we submit this amendment package. The package includes this request letter, with original signatures of the proponents, and the complete text of the measure as amended. We enclose two copies of the amended measure. The first contains language with strikes included and the second is a clean copy.

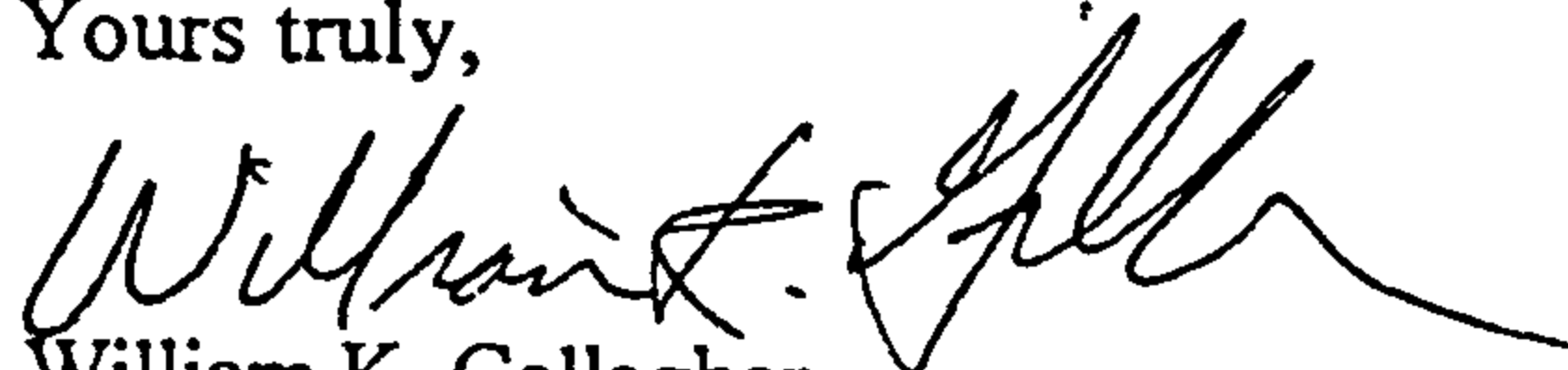
The following briefly describes the change that we would make in these amendments:

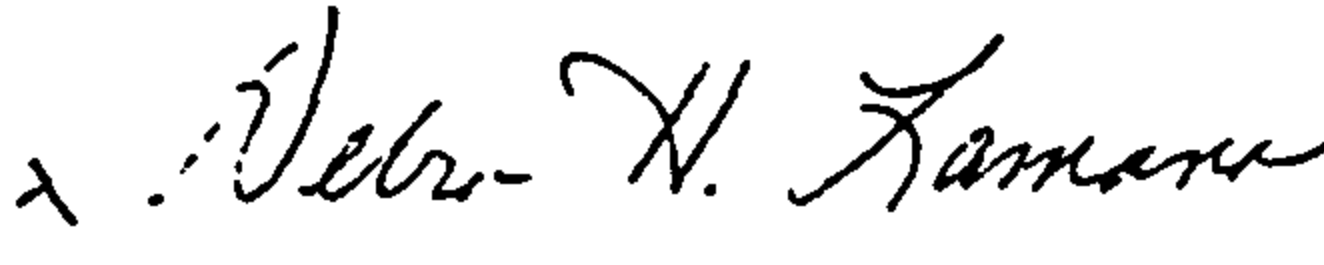
— Section 401. (b): The word "state" has been replaced by the word "stated." The word "state" as originally submitted was a typographical error. The proponents do not believe this constitutes a substantive change.

In summary, we believe that the change we have submitted is not substantive, and therefore request that our proposed initiative be returned to us with Title and Summary on the original date projected. If you find this change to be substantive, and therefore find that you would have to delay returning the Title and Summary, we request that this request for amendment be withdrawn.

Thank you for your attention to this matter. Please let us know if there is any further information or clarification that we can provide.

Yours truly,


William K. Gallagher
(310) 392-5304


Debra H. Lamana
(310) 392-5304

;

;

**“None of the Above”
Voter Empowerment Act**

Section 1. “None of the Above” Voter Empowerment Act

*Chapter 5 (commencing with Section 400) is added to Division 0.5 of
the Elections Code as follows:*

Option of Voting for None of the Above

Article 1: Findings and Purposes

400. Title.

This chapter shall be known as the “None of the Above”
Empowerment Act.

401. Findings and Declarations.

The People of California find and declare as follows:

(a) As stated in Article 2 of the Constitution of California, “All
political power is inherent in the people.” All elected representatives should
accordingly represent the choices of the people.

(b) As stated in Article 4 of the Constitution of California, “[T]he
Founding Fathers established a system of representative government based
upon free, fair, and competitive elections.”

(c) Uncontested elections, and elections in which the choice of
candidates represents the “lesser of two evils,” dilute the freedom, fairness,
and competitiveness of elections as well as the political power of the people
to choose their representatives.

(d) In these situations, there is a compelling state interest that the
people be offered the opportunity to reject unacceptable candidates and call
for new elections with new candidates in order to preserve the integrity of
representative government and to protect the constitutional principles of the
State of California.

402. Purpose of This Law.

The purpose of this law is to restore to the People of California the
power to choose their representatives, to increase public participation in
elections, and to discourage negative campaigning by allowing voters to
designate “none of the above” when voting in certain state elections.

Article 2: “None of the Above” Provision

403. “None of the Above” Ballot Designation.

Notwithstanding any other provision of law, commencing with the
statewide general election of 1998, and in every subsequent statewide
general election thereafter:

(a) In all statewide general elections for Governor, Lieutenant
Governor, Attorney General, Controller, Secretary of State, Treasurer, and



Insurance Commissioner, and in all general elections, other than primary and special elections, for Member of the Assembly and State Senator, voters shall be provided with the option of voting for "none of the above."

(b) All ballots in elections set forth in subdivision (a) shall be amended to include an option to vote for "none of the above" in the same manner and style as voters may vote for any candidate. The ballots shall state, in clearly legible type, the following words next to the option to vote for "none of the above": "(You may vote for either this option or a candidate, but not both.)"

(c) In all general elections for the offices set forth in subdivision (a), if the number of votes cast for "none of the above" is a plurality of the total votes cast, no candidate in that election may assume the office during that term.

Section 2. Vacancies by "None of the Above" Plurality

Chapter 3 (commencing with Section 10730) is added to Part 6 of Division 10 of the Elections Code as follows:

Vacancy Caused by a Plurality of Votes Cast for "None of the Above"

10730. Vacancy Caused by "None of the Above."

When, pursuant to subdivision (c) of Section 403 of the Elections Code, no candidate in a general election for any office specified in subdivision (a) of Section 403, may assume office because the number of votes cast in that election for "none of the above" is a plurality of the total votes cast, an election shall be held, pursuant to Chapters 3 and 4, Part 6, of Division 10 of the Elections Code, to fill the vacancy thus created.

10731. Proclamation by the Governor to Fill Vacancy.

Notwithstanding any other provision of law, the Governor shall issue a proclamation calling an election to fill the vacancy caused by a plurality of votes cast for "none of the above." The proclamation shall be issued no more than 6 calendar days after the date of the election in which the plurality for "none of the above" was cast. The election shall be held no less than 60 days, and no more than 90 days, following the date of the election in which the plurality for "none of the above" was cast.

10732. Vacancies in Office; Rejected Candidates.

Candidates, other than write-in candidates, who run for office in a general election at which the number of votes cast for "none of the above" is a plurality of the total votes cast shall be prohibited from competing in any subsequent election during that term to fill the vacancy thus created or from being appointed to fill such vacancy pending the new election.

10733. Date of Vacancies.

Any office that is unfilled pending the new election shall be filled by temporary appointment by the Governor or left vacant beginning on the date that the officer would normally assume his or her duties in accordance with the laws regulating special elections.



Section 3. New Elections To Be Held

Chapter 4 (commencing with Section 10740) is added to Part 6 of Division 10 of the Elections Code as follows:

New Elections to Fill Vacancies

10740. Vacancy Elections; Ballots

In the elections to fill the vacancy created by a plurality vote for "none of the above," the ballots shall include an option for "none of the above." The ballots shall state, in clearly legible type, the following words next to the option to vote for "none of the above": "(You may vote for a candidate as well.)"

10741. Tally of Votes in Vacancy Elections.

In the new elections for offices set forth in subdivision (a) of Section 403, any voter may cast his or her vote for any listed candidate, a write-in candidate, "none of the above," or both "none of the above" and any listed candidate or write-in candidate. All votes cast for "none of the above" shall be tallied as such. However, if "none of the above" wins a plurality, there will be no new elections, and the candidate for whom the most votes are cast shall assume office.

10742. Partisan Designation; Nomination.

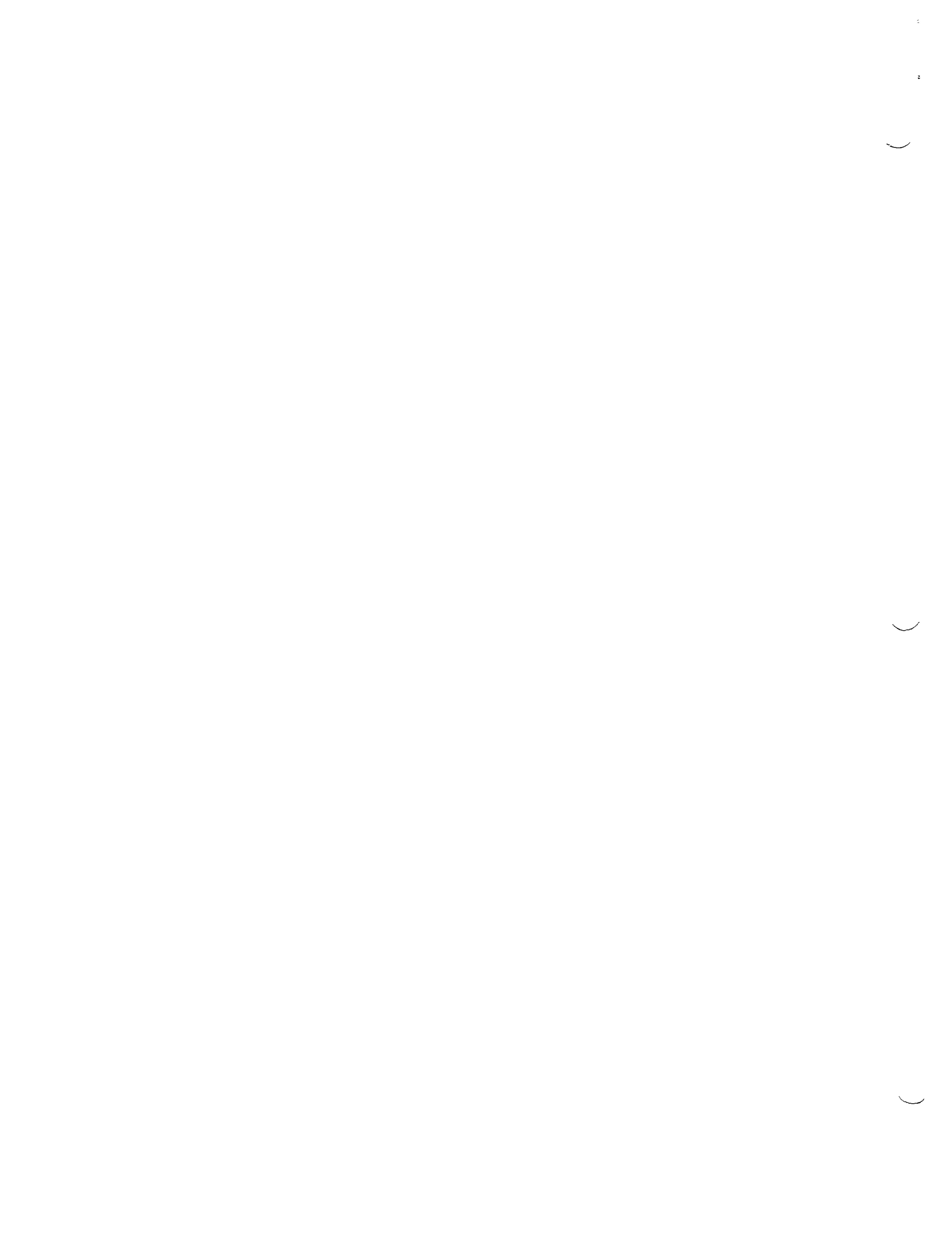
(a) Parties are free to choose candidates for the new elections to fill vacancies in any manner permitted by law. Notwithstanding Section 8400 of the Elections Code, individuals desiring to stand for the new elections who have not been designated by a party may qualify as candidates for the new elections by gathering in petitions the names, addresses, and signatures of qualified California voters, the number of which must equal at least one-half of 1 percent of the total number of votes cast in the last election for that office where an individual won election. Voters may validly sign the petitions of an unlimited number of potential candidates.

(b) Notwithstanding Section 8403 of the Elections Code, the nomination petitions of these persons attempting to qualify as candidates for the new elections shall not be circulated more than 54 days before the election is held to fill the vacancy and shall be submitted to the county elections officials and the Secretary of State for examination not less than 34 days before the election.

(c) Any qualified individual who received a number of write-in votes in the last election for the same office equal to at least one-half of 1 percent of the total number of votes cast in the last election for that office where an individual won election shall automatically qualify as a candidate in the new election.

10743. Candidate Statements for Vacancy Elections.

Notwithstanding any other provision of law, each candidate who qualifies for the new election may prepare a statement of no more than 250 words for the sole purpose of describing the candidate's qualifications for office and proposed policies. Each county elections official shall assemble the statements into a ballot pamphlet, at no cost to the candidates, and distribute the pamphlet to the electorate at least 7 calendar days before the



new election shall take place. The pamphlets shall be made available at the places of polling for the new election.

10744. Applicability of the Political Reform Act.

All persons involved in any new elections held under this Act shall comply with campaign finance laws in the same manner as persons involved in state general elections.

Section 4. Miscellaneous Provisions

Section 305(d) of the Elections Code is added to read:

305. "Candidate"; "Candidate for Public Office"

(d) "Candidate," for the purposes of instructions to voters, printing of ballot and ballot materials, and vote tallies and election returns as used in Sections 13204, 13208, 13211, 15059, 15060, 15101, 15102, 15251, 15309 and 15310 of the Elections Code shall include the designation "none of the above" with regard to general elections for the offices specified in subdivision (a) of Section 403.

Section 5. Construction.

This Act shall be liberally construed and applied in order to promote fully its purposes, as set forth in Section 1 of this Act.

Section 6. Limits on Legislative Amendments.

No provision of this Act may be amended by the Legislature except to further the purposes of that provision by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate. No amendment by the Legislature shall be deemed to further the purposes of this Act unless it furthers the purpose of the specified provision of this Act that is being amended. In any judicial action with respect to any legislative amendment, the court shall exercise its independent judgment as to whether or not the amendment satisfies the requirements of this section.

Section 7. Severability.

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 that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this Act are severable.

Section 8. Effective Date.

This law shall become effective immediately upon enactment.



12/17/97

