

County Initiative Information

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COUNTY INITIATIVE INFORMATION

SANTA CLARA COUNTY REGISTRAR OF VOTERS

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USE OF THIS GUIDE

This booklet is for general information only and does not have the force and effect of law, regulation, or rule. It is made available with the understanding that the Registrar of Voters is not rendering legal advice and this document is not to be a substitute for legal counsel for the individual using it. In case of conflict, the law, regulation, or rule will apply.

Before beginning any effort, the proponents should get the most current information available because of possible changes in law or procedure since the publication of this information. Anyone contemplating filing an Initiative should seek legal counsel, who is familiar with local government, for wording or any legal advice.

If the Initiative concerns a City, that City must be contacted for information.

COUNTY INITIATIVE INFORMATION

(All citations are to the Elections Code unless otherwise specified)

The initiative is the power of the electors to propose statutes (laws) and amendments to the (State) Constitution (and County Charter), and to adopt or reject such laws and amendments. (State Constitution, Article. II, Section 8(a); Government Code 23702, 23720; County Charter, Article I, Section 102)

Information on how to qualify a State initiative can be found on the Secretary of State's website at <https://www.sos.ca.gov/elections/ballot-measures/how-qualify-initiative>. Information on how to qualify a City initiative must be obtained from the Office of the City Clerk for the city in which the initiative is to be circulated.

General Information

Initiative powers are not available to voters involving:

- Federal issues. (U.S. Constitution, Article 1, Section 1)
- School and community college districts. (Elections Code §9300, Government Code 56036)
- Districts which have no election procedures or do not provide for action by ordinance. (Elections Code §9300)

Petition

An initiative measure may be proposed by submitting to the appropriate authority a petition containing the text of the measure and a specified number of signatures of qualified voters.

Elections Code §9101

Only the proponents of an initiative, or persons authorized in writing by the proponents are entitled to submit a petition for filing.

Elections Code §9113

A petition may not be circulated within 100 feet of a polling place on the day of any election.

Elections Code §18370

Petition signatures may be used for no purpose other than the qualifying the measure for the ballot.

Elections Code §18650

Anyone who signs a petition may have his/her name withdrawn by submitting a written request therefor to the officer with whom the petition is to be filed prior to the day of filing.

Elections Code §103

Record Retention

Elections officials must preserve an initiative petition for a period of eight months after certification of the results of the election for which it qualified or, if not submitted to the voters, eight months after the final examination of the petition. Thereafter, the petition shall be destroyed unless needed as evidence in a pending legal action. Elections Code §17200

Not a Public Record

Once filed an initiative petition is not a public record open to inspection by the general public. If a petition fails to qualify, the proponents may, within 21 days after certification of insufficiency, examine the petition to determine which signatures were disqualified and the reasons therefor. Certain administrative and law enforcement agencies may examine petitions upon approval of the Superior Court. Government Code 6253.5

Conflicting Measures

If the provisions of two or more measures approved at the same election conflict, the measure receiving the highest affirmative vote shall prevail. Elections Code §9123

No Legislative Amendment

Statutes enacted by initiative may not be amended or repealed except by a vote of the people unless the statute itself provides for amendment or appeal without voter approval. Elections Code §9125

Campaign Financial Reports

Committees formed to support or oppose the qualification of initiative measures have campaign reporting obligations under the Political Reform Act of 1974. Government Code 82013, 84200

Signatures Required

County Initiative

Ten percent of vote within the County for all candidates for Governor at the last gubernatorial election preceding publication of notice of intention. Elections Code §9118

County Charter Amendment:

Ten percent of vote within the County for all candidates for Governor at the last gubernatorial election. Government Code 23720(a)

Withdraw Petition

The proponent of an initiative may withdraw the initiative at any time before the 88th day before the election, whether or not the petition has already been found sufficient by the elections official. Elections Code §9118.5

Notice of Intention

Prior to circulation of petition, proponents must file a Notice of Intention to do so with the county elections official. The notice shall contain the written text of the initiative, the name and address of one, but not more than five proponents of the measure, a request that a ballot title and summary be prepared, and may include a statement, not exceeding 500 words, of the reasons for the proposed petition.

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of ____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(optional statement)

Elections Code §§9103(a), 9104

Filing Fee

A fee of \$50.00, as established by the board of supervisors, shall be paid to the Registrar of Voters by every person filing a notice of intent to circulate an initiative petition pertaining to the County Ordinance Code, the annexation of territory to the County, the consolidation of counties, or the dissolution of a county. This fee, not to exceed two hundred dollars (\$200), shall be refunded if the Registrar of Voters certifies the petition within one year from the date that the notice of intent was filed.

Elections Code §9103(b), County Charter, Section A11-7

Ballot Title and Summary

The county elections official shall immediately transmit a copy of any proposed measure to county counsel who shall, within 15 days, return a Ballot Title and Summary, of not more than 500 words, expressing the purpose of the proposed measure. Elections Code §9105(a)

The county elections official shall furnish the Ballot Title and Summary to the proponents of the filed measure. Elections Code §9105(b)

Any elector of the county may seek a writ of mandate requiring the ballot title or summary prepared by the county counsel to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9105.

Elections Code §9106

Publication of the Notice of Intention

The proponents shall, prior to the circulation of the petition, publish the Notice of Intention, and the ballot title and summary of the proposed measure in a newspaper of general circulation published in that county. The ballot title and summary shall be printed, in not smaller than 12-point, roman boldface type, on each section of the petition above the text of the proposed measure and across the top of each page on which signatures are to appear. The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to be Submitted Directly to the Voters

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(Insert here the 500-word statement (if any) followed by names and addresses of the proponents)

The County Counsel has prepared the following title and summary of the chief purposes and points of the proposed measure:

(Insert the official title and summary)

Elections Code §9105(b)(c)

Circulation and Filing of Petition

County petitions may be circulated among the voters of the jurisdiction **after** proof of publication of Notice of Intention and Ballot Title and Summary have been filed with the Registrar of Voters. Any registered voter in the county may sign a county initiative petition.

Elections Code §§9105(b), 9108

Petitions shall be filed with the Registrar of Voters within 180 days from the date of receipt of the Ballot Title and Summary or an amended Ballot Title and Summary, whichever occurs later. All sections of a petition must be presented for filing at the same time and may not thereafter be amended except by court order. If the number of signatures submitted is less than the minimum number required, the petition will not be accepted.

Elections Code §§9110, 9113

Initiative Impact Report

- (a) During the circulation of the petition or before taking either action described in subdivision (a) and (b) of Section 9118, the board of supervisors may refer the proposed initiative measure to a county agency or agencies for a report on any or all of the following:
- (1) Its fiscal impact.
 - (2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (Commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.
 - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (5) Its impact on the community's ability to attract and retain business and employment.
 - (6) Its impact on the uses of vacant parcels of land.
 - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (8) Any other matters the board of supervisor's requests to be in the report.
- (b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

Elections Code §9111

Verification and Certification of Petition

If a petition is accepted for filing, the signatures thereon must be verified by the Registrar of Voters within 30 days, excluding Saturdays, Sundays and holidays. Elections Code §§9114, 9115

If the minimum number of signatures required to qualify the petition are filed, the signatures are authenticated by comparing them to signatures of registered voters on file at the election official's office. If more than 500 signatures are filed, a random sample of 500 signatures or 3% of the number filed, whichever is the greater number, are verified. Elections Code §§9114, 9115

If verification of the random sample indicates that the total number of valid signatures on the petition is at least 110% of the number required, the petition shall be deemed qualified.

If the random sample indicates that the total number of valid signatures is less than 95% of the number required, the petition will be deemed to have failed.

If the random sample indicates that the total number of valid signatures is between 95% and 110% of the number required, then the sample must be rejected and all signatures on the petition have to be verified.

If the petition is found insufficient, the proponents are so notified, and no further action is taken.

If the petition is found sufficient, the proponents are so notified, and the results of the examination are certified to the governing body of the jurisdiction. Elections Code §§9114, 9115

Action by Governing Body

If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, the Board of Supervisors shall do one of the following:

- (A) Adopt the ordinance without alternation at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.
- (B) Submit the ordinance, without alternation, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405.
- (C) Order a report pursuant to Section 9111 at the regular meeting at which the certification of the petition is presented. When the report is presented to the board of supervisors, it shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

Elections Code §9118

County Charter Amendment

If petition is signed by voters equal in number 10% of the vote for Governor, the Board of Supervisors shall submit the proposal to the voters at the next established election date not less than 88 days after the proposal is received by the Board.

Government Code 23722

Effective Date - County

If a majority of the voters voting on the proposed ordinance vote in its favor, the ordinance shall be considered adopted on the date the vote is declared by the governing body of the jurisdiction and shall go into effect 10 days after that date.

Elections Code §9122

Additional Requirements

The proponents of an initiative measure shall ensure that any person, company, or other organization that is paid, or who volunteers, to solicit signatures to qualify the proposed measure for the ballot shall receive instruction on the requirements and prohibitions imposed by state law with respect to circulation of the petition and signature gathering thereon, with an emphasis on the prohibition on the use of signatures on an initiative petition for a purpose other than qualification of the proposed measure for the ballot.

Elections Code §9607

Signed Statements

(a) A proponent of an initiative measure shall execute and submit, along with the request for a title and summary for the proposed measure, a signed statement that reads as follows:

I, _____, 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.

(Signature of Proponent)

Dated this ____ day of _____, 20__

(b) The certification required by subdivision (a) shall be kept on file by the agency authorized to prepare the title and summary for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

Elections Code §9608

(a) Prior to allowing a person to circulate an initiative petition for signatures, the person, company official, or other organizational officer who is in charge of signature gathering shall execute and submit to the proponents a signed statement that reads as follows:

I, _____, 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.

(Signature of Official)

Dated this ____ day of _____, 20__

(b) The certification required by subdivision (a) shall be kept on file by the proponents of the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

Elections Code §9609

(a) Prior to soliciting signatures on an initiative petition, a circulator shall execute and submit to the person, company official, or other organizational officer who is in charge of signature gathering a signed statement that reads as follows:

I, _____, 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.

(Signature of Circulator)

Dated this ____ day of _____, 20__

(b) The certification required by subdivision (a) shall be kept on file by the person, company official, or other organizational officer who is in charge of signature gathering for the proposed initiative measure for not less than eight months after the certification of the results of the election for which the measure qualified, or if the measure, for any reason, is not submitted to the voters, eight months after the deadline for submission of the petition to the elections official.

(c) This section shall not apply to unpaid circulators of state or local initiative petitions.

(d) Failure to comply with this section shall not invalidate any signatures on a state or local initiative petition.

Elections Code §9610