



Secretary of State
DEBRA BOWEN
State of California

August 3, 2010

The Honorable Darrell Steinberg
President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

Dear President Pro Tempore Steinberg:

Thank you for asking for information about the steps that would need to be taken should a decision be made to create a supplemental statewide ballot pamphlet to place additional measures on the November 2, 2010, General Election ballot.

I would like to take this opportunity to address four issues that relate to this subject generally, including one that was detailed in my July 9, 2010, letter to the Governor and the legislative leaders regarding Proposition 18:

- Amending or removing items currently on the November ballot
- Creating a supplemental statewide ballot pamphlet
- Budgeting for a supplemental statewide ballot pamphlet
- Numbering of measures in a supplemental statewide ballot pamphlet

Amending or Removing Items Currently on the November Ballot

There has been some discussion about amending or removing Proposition 18, which will be on the November ballot.

As detailed in my July 9, 2010, letter to the Governor and the legislative leadership, Elections Code section 9040 requires a legislative measure to be enacted 131 days prior to a statewide election in order to appear on the ballot. However, the Legislature and the Governor have the authority to enact legislation waiving certain statutory requirements in order to place a measure on the ballot after that date. Any measure enacted by the Legislature and signed by the Governor by July 13, 2010, could have been placed on the November 2, 2010, ballot and would have been placed in the principal statewide ballot pamphlet, assuming the appropriate statutes were waived.

That deadline also applied to any legislation that proposed to amend measures that the Legislature had previously placed on the ballot, such as Proposition 18. It is no longer possible to amend Proposition 18 and have it remain in the principal statewide ballot pamphlet. However, it is possible to remove Proposition 18 from the principal ballot pamphlet, amend it, and place it into a supplemental statewide ballot pamphlet and on the ballot for the November election, or place it onto a future statewide election ballot.

To accomplish either of these goals, a measure making the change must be approved by the Legislature, signed by the Governor, and chaptered into law by my office by 5:00 p.m. on August 9, 2010. That is the date the principal statewide ballot pamphlet will come off of public display and will go to the printer, and it is also the day many of California's 58 county elections officials will begin to order their ballots and sample ballots for the election.

Creating a Supplemental Statewide Ballot Pamphlet

California law dictates that many tasks must be completed between the time a bill placing a measure on the ballot is enacted and the date on which ballots, sample ballots, and the principal statewide ballot pamphlet are sent to print. That same list of tasks applies to the creation of a supplemental statewide ballot pamphlet. Under the current statutory deadlines, the schedule reflecting the critical dates for the November 2, 2010, General Election is as follows:

- June 24, 2010 (E-131). Per Elections Code section 9040, the last day for a legislative measure to be passed, signed, and chaptered in order to qualify for the ballot.
- July 20, 2010 (E-105). First day of 20-day public display period.
- August 9, 2010 (E-85). End of 20-day public display period. Principal ballot pamphlet goes to print.
- September 3, 2010 (E-60). Counties begin mailing military and overseas ballots.
- September 23, 2010 (E-40). The Secretary of State begins mailing principal ballot pamphlets to voters. Counties begin mailing sample ballots.

Should the Legislature and the Governor wish to create a supplemental statewide ballot pamphlet, the time to do that and provide the public with the statutorily required 20-day public display period for the ballot labels and titles and summaries has already passed.

However, should the Legislature and the Governor wish to create a supplemental statewide ballot pamphlet and provide the public with a truncated 8-day public display period for the ballot labels and titles and summaries (the 20-day public display period for

any supplemental statewide ballot pamphlet itself cannot be shortened), something that has been done in the past, the schedule I would recommend is as follows:

- August 14, 2010, midnight (E-80): Measures must be passed by the Legislature, signed by the Governor, and chaptered into law to qualify for the November 2, 2010, General Election ballot.
- August 17, 2010, 5:00 p.m. (E-77): English ballot labels and titles and summaries are due from Attorney General.
- August 17, 2010, 2:00 p.m. (E-77): Arguments for and against measures must be submitted to the Secretary of State.
- August 17, 2010, 5:00 p.m. (E-77): Arguments exchanged between authors.
- August 18, 2010 (E-76): First day of a truncated 8-day public display period for the English ballot labels and ballot titles and summaries.
- August 20, 2010, 5:00 p.m. (E-74): Legislative analyses, texts, rebuttals, 50-word summaries are due.
- August 20, 2010, 5:00 p.m. (E-74): Translations of ballot labels and titles and summaries are due and provided to the advisory body.
- August 21, 2010 (E-73): First day of the 20-day public display period for the English supplemental statewide ballot pamphlet.
- August 21, 2010, 5:00 p.m. (E-73): Feedback on translations of ballot labels and titles and summaries are due from the advisory body and provided to the translators.
- August 23, 2010, 5:00 p.m. (E-71): Final translations of ballot labels and titles and summaries are due.
- August 24, 2010. (E-70): First day of 8-day public display period for ballot label and ballot title and summary translations.
- August 26, 2010, 5:00 p.m. (E-68): End of the 8-day public display period for the English ballot labels and ballot titles and summaries. Final versions with any court-ordered changes are provided to county elections officials. This is the date the final certified list of candidates is also provided to county elections officials.
- September 1, 2010. (E-62): End of the 8-day public display period for ballot label and ballot title and summary translations.
- September 10, 2010, 5:00 p.m. (E-53): End of the 20-day public display period for the English supplemental statewide ballot pamphlet. The English supplemental statewide ballot pamphlet is sent to print.

It is only after all of these tasks are completed that the English language version of the supplemental statewide ballot pamphlet can be printed and the final ballot language can be sent to the county elections officials so they can begin preparing and printing their ballots and sample ballots. The state printer takes approximately 20 to 40 days, depending on the length of the pamphlets, to print more than 11.5 million ballot

pamphlets. The pamphlet is also produced in large text and audio cassette formats to assist voters with disabilities.

At the same time the English version of the supplemental statewide ballot pamphlet goes to print, a final copy is provided to the contracted translators so they can translate it into the six foreign languages and provide a print-ready final version of the foreign language ballot pamphlet. The translation process can take approximately three weeks; however, printing of the foreign language supplemental statewide ballot pamphlets is quicker given the comparatively small number required. At the same time the foreign language supplemental statewide ballot pamphlets are sent to print, audio cassettes must be recorded, and large text ballot pamphlets of the translations must be printed.

At the county level, approximately 17 million sample ballots and actual ballots must be formatted and printed so that each voter only receives a ballot that includes those candidates and measures he or she is eligible to vote on. Some county elections officials must print ballots in languages other than English (Los Angeles County has to print ballots in six additional languages). This requires substantial layout and proofing to ensure accuracy. Any delay in placing measures on the ballot compresses the time printers have in which to produce precinct ballots, vote-by-mail ballots, sample ballots, and other materials for California's 58 county elections officials.

Please note that, because county elections officials and their printers need the ballot labels and ballot titles and summaries before they can begin their tasks, simply requiring the state printer to print a supplemental state ballot pamphlet more quickly is not sufficient to accommodate any further delay in the deadline for a measure to be passed, signed, and chaptered.

Budgeting for a Supplemental Statewide Ballot Pamphlet

The cost of creating and printing a supplemental statewide ballot pamphlet depends chiefly on the length of the pamphlet. Due to the costs of preparing any printing job and the fact that many of the set-up costs are fixed, a 48-page supplemental statewide ballot pamphlet does not cost 50% of what it would cost to print and mail a 96-page supplemental statewide ballot pamphlet.

For a frame of reference, it may be helpful to look at the cost of the supplemental statewide ballot pamphlet that was published for the November 4, 2008, General Election.

The supplemental statewide ballot pamphlet for the November 4, 2008, General Election included one measure, was 16 pages long, and cost approximately \$2.5 million

to print and mail. This compares to the approximately \$7.5 million cost of printing and mailing the 144-page principal statewide ballot pamphlet, which contained 12 measures.

The cost to publish a 16-page supplemental statewide ballot pamphlet, which can accommodate approximately one to two measures (depending on the length, analyses, and arguments for and against the measures), is likely to be a minimum of \$1.21 million. A 32-page ballot pamphlet that can accommodate approximately one to three measures (depending again on the length, analyses, and arguments for and against the measures) is likely to cost a minimum of \$1.6 million to publish.

The cost to mail 11.5 million 16-page or 32-page supplemental statewide ballot pamphlets using the non-profit bulk rate is likely to average \$0.147 per pamphlet, or nearly \$2.37 million.

Therefore, based on a conservative estimate of a two-measure supplemental statewide ballot pamphlet, the total minimum cost of creating, printing, and mailing a supplemental statewide ballot pamphlet is likely to range between approximately \$3.58 million and \$4 million, depending on the size of the pamphlet.

Numbering of Measures in a Supplemental Statewide Ballot Pamphlet

Elections Code section 13117 sets forth the numbering of ballot propositions and resets the numbering sequence to Proposition 1 every ten years. The November 4, 2008, General Election was the first reset under the law, so proposition numbers in that election began with Proposition 1.

Elections Code section 13115 sets forth how initiatives are ordered on the ballot:

- (a) Bond measures in the order in which they qualify.
- (b) Constitutional amendments in the order in which they qualify.
- (c) Other legislative measures in the order in which they are approved by the Legislature.
- (d) Initiative measures in the order in which they qualify.
- (e) Referendum measures in the order in which they qualify.

The Elections Code does not speak specifically to the numbering of measures in a supplemental statewide ballot pamphlet. Absent legislation to the contrary, I will follow the procedure set forth in Elections Code section 13117 if there is a supplemental statewide ballot pamphlet by numbering the first measure in any such pamphlet as

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Proposition 28. The Legislature and the Governor do have the ability to assign specific numbers to any measure they may add to a supplemental statewide ballot pamphlet, provided they do not duplicate or alter any of the numbers assigned to the measures in the principal statewide ballot pamphlet.

If you have any questions or need additional information, please call me at (916) 653-7244 or have your staff contact my Deputy for Legislative and Constituent Affairs, Ronda Paschal, at (916) 653-6774.

Sincerely,



Debra Bowen
Secretary of State

DB:elg:pg:jl:op

cc: The Honorable Arnold Schwarzenegger, Governor
The Honorable Dennis Hollingsworth, Senate Republican Leader
The Honorable John Pérez, Speaker of the Assembly
The Honorable Martin Garrick, Assembly Republican Leader