
State Government Committee

HB 1831

Brief Description: Holding hearings on initiatives.

Sponsors: Representatives Haigh, Hunt and Miloscia.

Brief Summary of Bill

- Requires the Secretary of State (Secretary) to hold public hearings on initiatives that qualify for the general election ballot.
- Changes the ethics laws to allow officials to make objective and fair presentations of fact relevant to ballot measures, and to participate in the public hearings conducted by the Secretary.

Hearing Date: 2/20/03

Staff: Katie Blinn (786-7114).

Background:

Initiatives:

The authority for the people to legislate was established in 1911 in the State Constitution, Article II, section 1, and includes initiatives to the people, initiatives to the Legislature, and referenda. Once the text of an initiative to the people is filed with the Secretary of State (Secretary), it must be submitted to the Code Reviser for review of its form and style. The Secretary assigns the measure a serial number and the Attorney General writes a 75-word summary and the ballot title. By early July, four months prior to the general election, the person proposing the initiative must gather enough signatures to exceed 8 percent of the votes cast for Governor at the last gubernatorial election. Once the names on the petitions are verified and canvassed, the Secretary certifies the initiative to the people to be placed on the November general election ballot.

Ethics Laws:

The ethics laws prohibit state and local officials and their employees from using, authorizing the use of, or acquiescing in the use of public facilities to assist a candidate or ballot proposition campaign. Exceptions to the rule include:

- action taken at an open public meeting by members of an elected legislative body to express a collective decision, to actually vote on a motion, proposal or ordinance, or to support or oppose a ballot proposition. Notice of the meeting must include the title and number of the ballot proposition, and members of the public and the legislative body must be allowed equal opportunity to express opposing views;
- a statement by an elected official supporting or opposing a ballot proposition made at an open press conference or made in response to an inquiry; and
- activities that are part of the "normal and regular conduct" of the office or agency.

In statute, state officials are afforded an additional exception of de minimis use of public facilities incidental to the preparation or delivery of self-initiated communications of their views on those ballot propositions that foreseeably may affect a matter that falls within their responsibilities. However, the Legislative Ethics Board has ruled that the "normal and regular conduct" of the Legislature does not include providing unsolicited information or views on initiatives to the people or referendum measures. The only permissible self-initiated comments on ballot measures considered part of the "normal and regular conduct" exception are measures that have gone through the Legislature: initiatives to the Legislature, alternative legislative measures, and referendum bills.

The Public Disclosure Commission (PDC), which enforces the ethics laws for local governments, has adopted a rule that does allow local officials to make an objective and fair presentation of facts relevant to a ballot proposition if such action is part of the normal and regular conduct of the office or agency. The information from the local government cannot advocate how to vote on the measure.

Summary of Bill:

Initiative Hearings:

Between September 1 and October 15 each year, the Secretary must hold public hearings in each congressional district of the state on initiatives certified for the general election ballot. When two or more congressional districts are in a compact geographical area, the Secretary may hold one hearing to serve the multiple districts. The hearings must provide an opportunity for proponents and opponents and other members of the public to comment on the fiscal and policy impacts of the initiatives. State and local officials may use public facilities to prepare comments for the hearings on the impact of the initiatives.

Failure to hold a hearing on an initiative does not invalidate it. The Secretary may adopt rules to ensure that the public hearings are carried out in an organized, objective manner.

Ethics Laws:

For state officials and employees, a new exception to the ethics law is created allowing them to use public facilities to prepare and deliver objective and neutral self-initiated communications consisting of explanatory information on the impact of any ballot proposition that foreseeably may affect a matter that falls within their responsibilities. The exception applies to all ballot measures, not just those that go through the Legislature. The use of public facilities is not limited to de minimis use, but is limited to communicating explanatory information, rather than views. The portions of law allowing de minimis use of public facilities to express views are removed to more accurately reflect interpretations of the law

by the Legislative Ethics Board.

For local officials and employees, the ethics exception currently provided in PDC rule is provided in statute. It allows local officials to make an objective and fair presentation of facts relevant to the impact a ballot proposition may have on the office or agency if such activities are part of the normal and regular conduct of the office or agency.

An additional exception to the ethics law is created for both state and local officials that allows them to participate in the public hearings conducted by the Secretary.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.