

- 1) Transfers from the AG to the Legislative Analyst the duties of preparing the circulating title and summary for statewide ballot measures.
- 2) Transfers from the AG to the Legislative Analyst the duties of preparing the ballot label and the title and summary for the state voter information guide for measures appearing on a statewide ballot.
- 3) Requires, prior to circulating for signatures, a copy of an initiative or referendum petition be submitted to the Legislative Analyst instead of the AG for the purpose of preparing the circulating title and summary for a statewide ballot measure.
- 4) Makes other technical and conforming changes.

BACKGROUND

The DOF and the Legislative Analyst Office. The DOF serves as the Governor's chief fiscal policy advisor in fiscal matters. The Legislative Analyst is appointed by the Joint Legislative Budget Committee (JLBC), a 16-member bipartisan joint committee of the Legislature. According to their website, the Legislative Analyst's Office (LAO) has provided nonpartisan fiscal and policy analysis to the California Legislature since 1941. Currently, 43 analytical staff cover several budget and policy areas: criminal justice, state finance, education (including K-12 and higher education), health and human services, natural resources and environment, general government (including local government), transportation, and capital outlay and infrastructure.

Historically, one of the most important responsibilities of the LAO has been to analyze the annual Governor's budget. More generally, the office is a staff resource to all legislators. The LAO also performs the following functions:

- Budget "Control." The LAO reviews requests by the administration to make changes to the budget after it is enacted. These reviews are used primarily by members of the JLBC and the fiscal committees.
- Special Reports. Throughout the year, the office prepares special reports on the state budget and topics of interest to the Legislature.
- Initiatives and Ballot Measures. The office estimates the fiscal effect on state and local government of all proposed initiatives (prior to circulation) and prepares analyses of all measures that qualify for the statewide ballot.
- Forecasting. The LAO forecasts the state revenues and expenditures.

History of Similar Proposals. Over the last 15 years, various proposals have been introduced seeking to transfer some or all of the AG's role in the initiative and referendum process to the Legislative Analyst. Some of these measures were not heard, and others were heard and subsequently defeated. Please see RELATED/PRIOR LEGISLATION for a list of prior legislative efforts.

COMMENTS

- 1) According to the author: The initiative process is an integral and vital component of direct democracy in California, and is being exercised with increased frequency. An effective initiative process necessitates a non-partisan entity, without political

pressures, to draft the ballot title and summary. However, the soundness of our initiative process is compromised when the ballot title and summary is partial. Unfortunately, ballot language is susceptible to politicization, causing it to be inaccurate and misleading. This leads to a confused and frustrated, rather than educated and engaged, electorate. While initiatives themselves are inherently political, the ballot title and summary should not be. To maintain good governance and impartiality in California's initiatives process, the duty of drafting title and summary should be moved from the AG and placed under the jurisdiction of the Legislative Analyst.

SCA 3 transfers the constitutional authority to write the ballot title and summary from the AG's office to the Legislative Analyst. The LAO is an independent, non-partisan and trusted organization that provides credible and impartial analysis for the Legislature. The LAO currently provides an unbiased and honest analysis of each initiative. With this new duty, the LAO will create a fair and balanced ballot title and summary for each initiative. As the non-partisan entity that advises the Legislature and prepares fiscal analyses of measures, the LAO already has a solid track record of providing important information on behalf of voters.

- 2) Argument in Support. In a letter supporting SCA 3, the California Chamber of Commerce stated, in part, the following:

SCA 3 (Niello)...would ensure fairness and objectivity in the process of preparing the ballot title and summary for each statewide measure that the SOS determines will appear on the ballot in a statewide election. Currently, the responsibility lies with the elected position of the AG. These proposals would transfer that responsibility to the independent Legislative Analyst.

[...]

Statewide measures before the voters have wide-ranging and very serious consequences, impacting almost every aspect of the daily lives of Californians. It is long past time that we remove the politics from this process and ensure that a non-partisan entity perform this incredibly important task.

- 3) Argument in Opposition. In a letter opposing SCA 3, the California Nurses Association/National Nurses United stated, in part, the following:

This legislation would inappropriately shift the duty of preparing titles and summaries for initiatives and ballot measures from the AG to the LAO, insulating these duties from political accountability and shifting time-consuming responsibilities to an office with staff that already has tremendous responsibilities to provide advice to the Legislature. Given the wide-reaching effect that both ballot measures and the initiative process can have on California, robust systemic protections are necessary to ensure fairness and accountability. This bill serves to undermine those protections in California's ballot measure and initiative process.

RELATED/PRIOR LEGISLATION

SB 858 (Niello) of 2023 transfers statutorily from the AG to the Legislative Analyst, the duty of preparing the circulating title and summary, the ballot label and the title and summary for inclusion in the state voter information guide contingent upon voter approval of SCA 3. SB 858 is currently in the Senate Committee on Appropriations.

ACA 4 (Kiley) of 2021, substantively similar to this measure, would have transferred from the AG to the Legislative Analyst, the duty of preparing both the circulating title and summary for a proposed initiative or referendum and the ballot label and the ballot title and summary for the state voter information guide. ACA 4 was not heard and was returned to the Assembly Desk.

SB 283 (Nielsen) of 2015 was also substantively similar to this measure, but differed in that it would not have affected the existing role of the AG in preparing the circulating title and summary of proposed ballot measures. SB 283 was not taken up in this committee and returned to the Secretary of the Senate.

SB 1253 (Steinberg), Chapter 697, Statutes of 2014, imposed additional requirements on the AG when preparing ballot titles and summaries.

SB 1294 (Huff) of 2014 was substantively similar to SB 283. SB 1294 failed passage in this committee.

AB 2394 (Gorell) of 2014 would have required the SOS, instead of the AG, to prepare the circulating title and summary for initiative and referendum measures and the ballot label and the ballot title and summary for all state measures submitted to the voters. AB 2394 was not heard and subsequently died in the Assembly.

SCA 19 (Fuller) of 2012 and SB 1296 (Fuller) of 2012 were substantively similar to this measure and would have transferred the duty of preparing the circulating title and summary for proposed initiative or referendum measures and the ballot title and summary from the AG to the Legislative Analyst. Both measures failed passage in this committee.

AB 1968 (Niello) of 2010, among other provisions, would have required the Legislative Analyst, instead of the AG, to prepare a circulating title and summary of the chief purpose and points of a proposed state initiative or referendum measure and a ballot label. AB 1968 failed passage in the Assembly Committee on Appropriations.

ACA 20 & AB 319 (Niello) of 2009 were substantively similar to AB 1968 (Niello) in that they would have required the Legislative Analyst, instead of the AG, to prepare a circulating title and summary of the chief purpose and points of a proposed state initiative or referendum measure and a ballot label. Both measures failed passage in the Assembly Committee on Elections and Redistricting.

AB 2209 (Niello) of 2008 was substantively similar to AB 319 and AB 1968. AB 2209 failed passage in the Assembly Committee on Elections and Redistricting.

POSITIONS

Sponsor: Author

Support: California Builders Alliance
California Chamber of Commerce
California Common Cause
Election Integrity Project California, Inc.
League of Women Voters of California
Sacramento Regional Builders Exchange
Two Individuals

Oppose: California Nurses Association/National Nurses United

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