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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Steven Glazer, Chair  
2023 - 2024 Regular

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**Bill No:** SB 297 **Hearing Date:** 3/21/23  
**Author:** Allen  
**Version:** 2/2/23  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Karen French

**Subject:** Elections: initiatives and referenda: withdrawal

**DIGEST**

This bill makes changes and additions to the law governing withdrawal of statewide or local initiative or referendum measures.

**ANALYSIS**

Existing law:

- 1) Authorizes the proponents of a statewide initiative or referendum measure to withdraw the measure after filing the initiative or referendum petition with the appropriate elections official at any time before the Secretary of State (SOS) certifies that the measure has qualified for the ballot, as provided.
- 2) Allows proponents of an initiative or referendum measure to withdraw the measure after the petition has been filed with the appropriate elections official at any time before the SOS certifies that the measure has qualified for the ballot.
- 3) Requires, for the withdrawal of an initiative or referendum measure after the petition has been filed with the appropriate elections official, all of the proponents to file a written notice with the SOS to withdraw the measure.
- 4) Provides that, any person may engage in good faith bargaining between competing interests to secure legislative approval of matters embraced in a statewide or local initiative or referendum measure, and the proponents may, as a result of these negotiations, withdraw the measure at any time before filing the petition with the appropriate elections official.

This bill:

- 1) Clarifies that the procedures under existing law for withdrawal as a result of negotiations before filing the petition (see 4), above) require a written notice signed by all of the proponents. Clarifies that withdrawal after filing and at any time before certification changes the written notice signature requirement from “all” to “a majority” of the proponents.

- 2) Establishes a procedure for contingent withdrawal after the petition has been filed and at any time before SOS certifies that the measure has qualified for the ballot, changes the proponent required signature threshold from “all” to a “majority” of proponents serving written notice of withdrawal.
- 3) Authorizes the proponents of a statewide initiative or referendum measure to file a notice of withdrawal with the SOS that is contingent upon the enactment of a particular legislative measure, as specified.
- 4) Makes withdrawal of the initiative or referendum measure effective once the legislative measure identified in the notice of contingent withdrawal is given a chapter number by the SOS.
- 5) If the legislative measure is not enacted or is amended after the notice of contingent withdrawal is filed, the withdrawal of the initiative or referendum measure would not be given effect, as specified.

### **BACKGROUND**

The Initiative vs. Legislation. On July 20, 2021, Secretary of State Dr. Shirley N. Weber, Ph.D. certified the qualification of the California Recycling and Plastic Pollution Reduction Act, confirming that it will appear on the November 2022 ballot. The initiative would have banned single-use plastics, among other provisions.

SB 54 (Allen), Chapter 75, Statutes of 2022, required all packaging in California to be recyclable or compostable by 2032 among other provisions.

On June 30, 2022, lawmakers submitted submitted SB 54 to the Governor. The bill was intended to preempt the initiative and head off a costly initiative battle and possibly years of litigation. Some environmental groups supported the legislation, but key backers of the ballot measure maintained that it gave away too much to the plastics industry, which had fought off numerous previous attempts to restrict single-use containers, including those made of polystyrene. The bill was signed by the Governor and chaptered into law.

In the end, the enacted legislation was a result of intense negotiations between lawmakers and stakeholders in response to the pending initiative on the November ballot and an agreement was reached to remove the initiative following enactment of SB 54.

### **COMMENTS**

- 1) According to the author: California’s constitutional provisions for initiative, referendum, and recall date back to 1911 Progressive Era reforms that came in response to corruption and bribery during the Industrial Revolution and at the turn of the 20th century. The three direct democracy tools were designed to provide citizens with a check on legislative and gubernatorial powers – the power to go directly to the electorate to propose changes to the California Constitution and statutes. SB 1253 (Chapter 697, Statutes of 2014) created a mechanism for initiative proponents to remove their measure from the ballot before the Secretary of State

officially qualifies it for the next general election. This withdrawal option was intended to provide initiative proponents and the Legislature with the ability to resolve a policy issue through the legislative process, which affords greater opportunity for input and negotiations. Under current law, however, in order for a measure to be removed from the ballot, the Secretary of State must receive a notice from all proponents confirming they agree to do so. For an initiative with several proponents, it is possible for a majority to agree to remove the measure from the ballot if they believe a legislative alternative thoroughly addresses their concern, yet a single holdout can disagree and force the measure to statewide election.

SB 297 reforms the process of withdrawing a statutory or constitutional initiative or referendum by allowing a majority of proponents to agree to remove the measure from the state ballot in reaction to an adequate legislative response. The bill also establishes a contingent withdrawal process with the Secretary of State through which initiative proponents can pre-file a notice of their intent to withdraw their measure on the condition that the Legislature and the Governor approve a specific bill that proponents believe solves the problem they sought to address.

- 2) Need for the bill. Under current California law, in order for proponents of a ballot measure to remove it from the ballot, the Secretary of State must receive a notice from all sponsors agreeing to do so. There is no limit to the number of sponsors a measure may have and since 2013 there have been as few as one and as many as 27 lead proponents to an initiative. In cases where there are multiple lead proponents it is possible for a majority to agree to remove a measure from the ballot if they believe a legislative alternative correctly addresses the issue, but a single holdout individual can disagree and force the measure onto the ballot. A minority of proponents can therefore have undue influence on the outcome of a legislative solution and force voters to consider a measure that is less desirable and effective.

### **RELATED/PRIOR LEGISLATION**

SB 684 (Hertzberg) of 2020 would have prohibited a written notice of withdrawal submitted by the proponents of a statewide initiative or referendum measure from including any conditions that must be satisfied in order for the SOS to deem the withdrawal to be effective. SB 684 died on the Inactive File.

### **POSITIONS**

**Sponsor:** Author

**Support:** League of Women Voters of California

**Oppose:** None Received

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