

Grass Roots Initiative Reform Act

Proposal Summary

Today's legislative process is biased towards creating new laws, rather than re-examining and repealing old laws. This causes the body of laws to grow, increasing the size and scope of government and reducing individual freedom. The purpose of this initiative is to change this bias by changing the rules concerning initiatives and referenda.

The referendum is the power of the voters to approve or reject statutes or parts of statutes. Voters approve a statute by voting "Yes" and reject a statute by voting "No." This power is the People's Veto.

There is only a 90-day window available immediately after the enactment date of a statute to gather the necessary 433,971 valid signatures (5 percent of the votes for all candidates for Governor at the last gubernatorial election).

During the first 40 years of the existence of the referendum, 35 measures qualified for the ballot, of which three-fifths (21) were rejected by the voters. Since 1952, only twelve referenda have qualified for the ballot, seven of which were rejected by the voters:

- June 1982 – 4 Measures (Peripheral Canal and Reapportionment) – All rejected
- March 2000 – 3 Measures (Indian Gaming and Insurance Claims) – Two rejected
- November 2004 – 1 Measure (Health Care coverage requirements) – Rejected
- February 2008 – 4 Measures (Indian Gaming Compacts) – None Rejected

Several attempts to qualify referenda in recent years have failed (notably one statute on domestic partnerships and one on illegal immigrant driver licenses). It seems about the only ones capable of qualifying referenda are the insurance industry and Indian tribes.

Because the time allotted is so short and the process is only available prior to a law's effective date, the current referendum process is rarely attempted. This potentially powerful tool to reduce the growth of government – this People's Veto – is restrained by the institutional barriers built into our state's constitution.

The Grass Roots Initiative Reform Act is a proposed constitutional amendment that seeks to revamp the initiative and referendum process in California, implementing a number of popular reforms. At its heart though is a change in the dynamics of the referendum process.

As currently drafted, with 100,000 valid signatures a group of citizens can force an existing statute to be reconsidered by the legislature and with 433,971 valid signatures can subject an existing statute to a vote of the electorate. The window of time for gathering signatures would be increased from 90 days to 365 days and the start date of gathering signatures would become open-ended, applying not only to laws that have just been enacted, but also to laws that have been on the books for many years.

As proposed, if the legislature and Governor fail to re-enact the statute that petitioners compelled the government to reconsider, the measure is automatically repealed, thus saving referendum proponents the expense of having to campaign for the measure's rejection at the polls.

If the statute is re-enacted, proponents can still expend the resources needed to gather the remaining signatures needed to qualify the measure for the ballot and campaign to successfully repeal the measure. In such an event, the referendum's proponents are in a relatively advantageous position in such a contest because they are seeking a "No" vote to reject the measure. Voters are more inclined to vote "No," even when there is an expensive counter-campaign asking voters to support the statute and preserve the status quo. Voters see the burden of proof resting on those who are requesting a "Yes" vote. Those advocating a measure's rejection can often defeat the measure by educating voters about a measure's weaknesses.

Whether an initiative will win or lose at the ballot box is often determined at the drafting stage. It has been said that if focus groups and initial polling shows that an initiative enjoys less than 65% support, an organized opposition can reduce the support of the measure and defeat it. To enhance the likelihood of this measure prevailing, a number of popular reforms to the initiative and referendum process are included in this proposal that are designed to increase the measure's appeal to moderates and those who generally support reforming the initiative process.

These reforms include:

- Additional public disclosure on funding sources (supported by 80% of registered voters, according to PPIC Statewide Survey October 2008, Californians and Their Government)
- A system of review and revision for proposed initiatives to avoid legal issues and drafting errors (supported by 76% of registered voters; PPIC Statewide Survey October 2008)
- A period of time in which the initiative sponsor and the legislature could meet to see if there is a compromise solution before initiatives go to the ballot (supported by 79% of registered voters; PPIC Statewide Survey October 2008)
- An optional standard petition form created by the Secretary of State, so as to prevent petitions from being rejected for formatting errors.
- Making downloadable single-page petitions available from the Secretary of State's website.
- Requiring the Secretary of State to provide a running count of the submissions of signed petitions so decentralized petition gatherers can monitor a petition effort's progress

Winners, if this initiative becomes law:

- The Governor -- the opportunity to veto laws that are reconsidered by the legislature.
- Legislative members elected in response to public dissatisfaction with previous legislation -- better positioned to oppose or negotiate compromises on laws which are reconsidered.
- Business Groups and Trade Associations -- laws harmful to jobs and the economy can be subjected to a second look in the Legislature or a vote of the people.
- Taxpayers -- allows for the referendum of tax laws, which are currently exempt from referenda.
- The People -- enables them to compel the Legislature to address issues of importance to John Q. Public and provides them with the opportunity to veto laws that do not enjoy mainstream support.

Losers, if this initiative becomes law:

- Special Interests currently able to enact legislation that wouldn't survive a referendum.

Legal counsel has been engaged and concluded the proposal would survive legal challenge, if passed.

If sufficient support exists to go forward with this proposal, we must go through several stages to successfully implement this. Overly simplified, they would include:

1. Raising seed money.
2. Conducting focus groups to identify proposal strengths and weaknesses.
3. Making appropriate changes in wording to address weaknesses identified in focus groups.
4. Conducting polling to measure support for concept prior to qualifying initiative.
5. Raising money to qualify and market the initiative.
6. Submitting measure to Secretary of State.
7. Gathering the required 694,354 valid signatures to qualify the measure for the ballot.
8. Campaigning for passage.
9. Defending the initiative in court after its passage.



July 6, 2009

Mr. Aaron Starr
4048 Tucson Street
Simi Valley, CA 93063

Dear Aaron,

You asked us to conduct a legal analysis of your proposed initiative. Your initiative proposes several changes to the California Constitution and primarily makes the referendum process far more available to voters. Based on our review and analysis, we believe that the proposed constitutional changes would survive legal challenge. However, our conclusions are based on the state of the law as it currently stands. We provide our analysis and conclusions below.

Finally, as we discussed over the phone, certain provisions raise some practical concerns. For example, I have some cost and funding concerns over the provisions that provide that the Legislative Counsel will be available to provide legal advice to individuals proposing initiatives. However, I generally believe that the proposed changes would be good for California. Specifically, I believe that the amended referendum process would serve as a People's "line-item" veto by allowing certain legislation to be reviewed and amended by the voters. Furthermore, allowing the public to review spending and taxing legislation will hopefully lead to greater spending controls and would take the power out of the hands of the special interests and put in back in the hands of the voters.

ISSUE: Is the Grass Roots Initiative Reform Act constitutional under state and/or federal law?

Short Answer: Yes

RULE: *California Constitution, Art. II, Section 8; Art. II, Section 9*

ANALYSIS:

The Grass Roots Initiative Reform Act (the "Act") is a sweeping initiative containing broad reforms in how both the initiative and the referendum processes would operate. The Act is an initiative, and thus, its constitutionality and compliance with state laws must first be examined under the provisions of the California constitution concerning initiatives.

I. Courts Are Protective of the Initiative Process

Article II, Section 8(a) of the California Constitution provides: "The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them."

In interpreting this constitutional authority of the people to, amend the Constitution through initiatives, it has been held that: "Declaring it the duty of the courts to jealously guard this right of the people, the courts have described the initiative and referendum as articulating one of the most precious rights of our democratic process. It has long been our judicial policy to apply a liberal construction to this power wherever it is challenged in order that the right be not improperly annulled. If doubts can reasonably be resolved in favor of the use of this reserve power, courts will preserve it." *Associated Home Builders, Inc. v. Livermore*, 18 Cal. 3d 582, 591. (internal citations omitted).

Therefore, whatever legal challenges the Act may face, it is safe to conclude that the law and the courts will start off favoring the proponents, and the challengers will have to overcome that burden. Proponents have the standard of review on their side.

II. **Caution: Revision vs. Amendment**

Although the voters can amend the California Constitution by initiative, a revision of the Constitution can only be accomplished by assembling a constitutional convention and obtaining popular ratification or by legislative submission of the measure to the voters. *Cal Const. Art. XVIII Sec. 1-4*. That is, a validly passed initiative, if it is a constitutional amendment, will be generally upheld. However, a validly passed initiative, if it is a constitutional revision, will be generally struck down. *Legislature v. Eu*, (1991) 54 Cal.3d. 491, 506.

The analysis found in *25-302 California Forms of Pleading and Practice—Annotated Sec 302.12* is most helpful on this issue:

“To determine whether a particular provision of an initiative is an amendment or a revision, a court must analyze the quantitative and qualitative effects of the provision on the constitutional scheme. Substantial changes in either respect could amount to a revision. *Legislature v. Eu*, (1991) 54 Cal. 3d 492, 506. A substantial number of changes in the constitution affecting a host of provisions may result in a quantitative revision, rendering part or all of an initiative measure invalid. *Id.*

Modifications in the constitution that alter the nature of California's basic governmental plan, such as changes in the state's fundamental structure or the foundational powers of its branches, constitute a qualitative revision. *Legislature v. Eu*, 54 Cal.3d at 509; *Raven v. Deukmejian* (1990) 52 Cal. 3d 336, 350-354.

A court will find a qualitative revision if it necessarily or inevitably appears from the face of the challenged provision that the measure will substantially alter the basic governmental framework set forth in the constitution [*compare Raven v. Deukmejian*, (1990)52 Cal. 3d 336, 350-354 (striking down as improper constitutional revision a provision of Proposition 115 that would have vested in United States Supreme Court sole power to interpret under California Constitution certain procedural rights of criminal defendants), *with Legislature v. Eu*, (1991) 54 Cal. 3d 492, 506 (upholding provisions of Proposition 140 that established term limits for state legislators and various state constitutional officers and imposed specific restrictions on Legislature's budget, because these provisions do not affect either Legislature's fundamental structure or its foundational powers)]. A court is not required to fathom the long-term effects of the provision on the state's basic government plan to decide that a provision is not a qualitative revision. *Legislature*, *supra*, at 510."

In looking at the Grass Roots Initiative Reform Act, if passed, there would be numerous additions and deletions to the state constitution. For example, Section 4 of the Act adds approximately 17 new sections to Article II, Sec 8 alone, where that Section initially only had six sections. Thus, under the quantitative analysis of the Act, dealing with sheer number of additions and deletions to the constitution may be an issue. However, in looking at the line of revision vs. amendment cases, it appears that the courts look more to the qualitative changes to the constitution. Surely a court when interpreting the Act will ask, just as the *Eu* court did: Will this initiative alter the nature of California's basic governmental plan, such as changes in the state's fundamental structure or the foundational powers of its branches? There is a strong argument that the Act is not a revision. The Act does significantly alter the procedures and requirements involved in the initiative and referendum processes. Yet, it is unlikely that a court will consider reforms in those processes to be a

change in the fundamental structure of the state. The Act is mostly a procedural amendment. It does not target the foundation of any branch of state government.

III. Caution: Single-Subject Rule

“An initiative embracing more than one subject may not be submitted to the electors or have any effect.” *Cal. Const. Art II, Sec. 8(d)*. To ensure that initiatives comply with this requirement, courts have developed the “reasonably germane” test. *Kennedy Wholesale, Inc. v. State Bd. of Equalization*, (1991) 53 Cal.3d. 245, 253. That is, an initiative complies with the single-subject rule if its provisions, despite their varied collateral effects, are reasonably germane to each other. *Id.*

Under this test, the various provisions of an initiative are not required to be interlocking or interdependent. *Raven*, *supra*, at 349. It is enough that the various provisions are reasonably related to a common theme or purpose. *Senate of the State of Cal. v. Jones*, (1999) 21 Cal.4th 1142, 1157. Accordingly, courts have upheld initiative measures which fairly disclose a reasonable and common sense relationship among their various components in furtherance of a common purpose. *Id.* Courts also have looked to the extent to which an initiative’s provisions are germane to its general subject as reflected in its title and the field of legislation suggested thereby. *Chemical Specialties Manufacturers Assn., Inc., v. Dukmejian*, (1991) 227 Cal.App.3d. 663, 667. At any rate, the “reasonably germane” test is also liberal, again favoring the initiative process. Courts will sustain initiatives that fairly disclose a reasonable and common sense relationship among their various components in furtherance of a common purpose. *Brosnahan v. Brown*, (1982) 32 Cal.3d. 236, 253.

Regarding the Grass Roots Initiative Reform Act, it is clear that it is a broad reform measure. It affects areas of the initiative and referendum processes, as well as campaign

contribution disclosure rules, and judicial standards of review. A challenger to the Act may attempt to argue that at the very least the initiative process and the referendum process are two subjects, and thus should be addressed separately in separate initiatives. The challenger may argue that issues such as campaign statement disclosures are a different subject than the initiative process itself. However, this argument will likely fail based on the applicable rules above.

The goal of the Act is to reform the two main methods of direct democracy reserved to the people under the state constitution. True, the act deals with the topics of initiatives, and the subject of referenda, which may be considered different, however it is likely that the court will liberally construe the single-subject rule to uphold the Act. Initiatives and referenda are two different processes, but they are related, and an effort to reform one may logically be placed within an effort to reform the other. The “common theme” in regards to the Act is to reform the way direct democracy operates in this state. The single-subject rule is not violated.

IV. **Separation of Powers Issue**

Section 12 of the Act limits the authority of courts to grant injunctions and other writs which interfere with the operation of the Act except upon a finding by the court based on clear and convincing evidence that the public interest shall be prejudiced thereby. This perhaps may raise an issue as to whether through an initiative; the electorate may limit the authority of the courts in interpreting that very same initiative. The Court in the recent *Strauss v. Horton* decision found that Courts are bound to apply the constitution as amended, if validly amended via the initiative process: “Under the California Constitution, the authority to propose and adopt amendments to the Constitution is a power specifically recognized as one that the people may exercise through the initiative process. In utilizing the

initiative process in this fashion, the people do not usurp a power that the Constitution allocates exclusively to some other entity or branch of government, but rather employ a power explicitly entrusted to them by the Constitution. Once the people have adopted a constitutional amendment, of course, it is the duty of the courts to apply the state Constitution as amended by the new provision, but that circumstance does not in any sense signify that the adoption of such an amendment improperly impinges upon the judiciary's authority or responsibility, in violation of the separation of powers doctrine. Instead, the court's obligation to follow the mandate of the amended Constitution simply flows from the judiciary's foundational responsibility to act in accordance with the commands of the current governing law." 46 Cal.4th 364, 465 (2009).

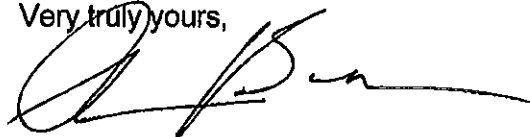
As the Act sets out the standard of review in which courts must use to interpret the Act, and restrains courts' ability to enjoin its application, the Act does so by amending the constitution. Thus, the courts are bound to operate under the rules as set forth under the constitution as amended by the initiative. This does not violate the separation of powers doctrine.

Mr. Aaron Starr
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V. **CONCLUSION**

Based on our review of case law and statutory authority we believe that the proposed constitutional changes would survive a legal challenge.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Baric', with a long horizontal flourish extending to the right.

Steven D. Baric, Esq.
Secretary, California Republican Party
President, California Rep. Lawyers Assoc.

Grass Roots Initiative Reform Act

SECTION 1. Title.

This measure shall be known and may be cited as the "Grass Roots Initiative Reform Act."

SECTION 2. Findings and Declarations.

The people of the state of California find and declare all of the following:

- a) The initiative provision in the Constitution has vested in the hands of the people of California the power to propose statutes and amendments to the Constitution and to adopt or reject them, while the referendum provision gives them the ultimate power to approve or reject most legislation.
- b) Overall, more Californians believe that public policy decisions made through the initiative process by California voters are probably better than public policy decisions made by the governor and state legislature.
- c) There is widespread disapproval of the way the Legislature and Governor are handling their jobs, often causing the people to take matters into their own hands through the initiative and referendum process.
- d) Public disclosure of funding sources for signature gathering and initiative campaigns is inadequate, leaving voters largely unaware as to who is underwriting these efforts.
- e) The present initiative process lacks a system of review and revision for proposed initiatives to try to avoid legal issues and drafting errors.
- f) The present initiative process does not encourage the Legislature to meet with the initiative proponents to determine if there is an acceptable compromise solution before initiatives go to the ballot.
- g) The present initiative and referendum process is fraught with legal obstacles such as the requirement to include many pages of text containing the entire contents of the statute with every individual petition sheet, thus frequently making prohibitive the cost of printing and distributing petitions.
- h) The people's power to approve or reject legislation has been unavailable in cases where the laws are already in effect, where tax levies have been imposed, and when legislation has been declared urgent.
- i) The State enacts hundreds of laws every year, many on the same day, making it impractical for the people of California to exercise their power to approve or reject most legislation.
- j) The expanding population of the state over the years has dramatically increased the number of signatures required to qualify a measure, making the qualification of an initiative or referendum costly and beyond the reach of most citizen groups. As a result, no initiative since 1982 has qualified for the ballot without the assistance of paid petition circulators.
- k) The present referendum process allows only a short 90-day window of time from the date a statute is enacted to circulate a petition to collect hundreds of thousands of signatures for a referendum, and only 150 days to qualify an initiative, making it nearly impossible for a citizen group to qualify these measures for the ballot without the assistance of paid petition circulators.
- l) Advances in Internet technology have now made it possible to overcome the above limitations and enable decentralized distribution and circulation of petition forms.

SECTION 3. Purposes and Intent.

The people of the State of California hereby declare their purposes and intent in enacting the "Grass Roots Initiative Reform Act" to be as follows:

- a) To make available to initiative and referendum proponents the services of the Legislative Counsel in providing measure proponents assistance in the drafting of appropriate wording, determining how best to integrate the proposal into existing law, identifying potential constitutional or other legal problems that may be raised by the proposal, and working with the requesters to resolve those problems.
- b) To provide better disclosure to the public of those who are contributing large amounts of money toward the qualification or disqualification of a measure prior to petitions being circulated and throughout the signature gathering period.

- c) To expand the length of time available for the people to qualify an initiative or referendum to 365 days, making it more likely that an all-volunteer effort can qualify such measures.
- d) To expand the right of the people to approve or reject legislation before and after that legislation has gone into effect, including tax levies and legislation deemed urgent, all of which have not been subject to the referendum process.
- e) To increase the likelihood that laws which the Legislature passes and the Governor signs possess broad popular support because a more accessible referendum process will make unpopular laws more likely to be subjected to review by the voters.
- f) To stay a law that is not yet in effect while a good faith effort is underway to gather signatures during the signature gathering period and until it is considered by the electors in the event the referendum becomes qualified for the ballot, unless the statute is re-enacted.
- g) To create simplified petition forms accessible on the Internet for each proposed initiative or referendum, so as to protect the people from having their petitions declared invalid due to a technical flaw in the petition form and to enable decentralized dissemination of petition forms.
- h) To provide a running count of the submissions of signed petitions so decentralized petition gatherers can monitor a petition effort's progress.
- i) To instruct the Secretary of State to notify the proponents and Legislature promptly of any proposed initiative or referendum that has obtained 100,000 valid signatures and within 5 days of any proposed initiative or referendum that has obtained a sufficient number of valid signatures to qualify for the ballot.
- j) To encourage the Legislature to meet with initiative proponents to determine if there is an acceptable compromise solution in lieu of an initiative going to the ballot that accomplishes the purposes and intent of the proposed measure.
- k) To grant the Legislature and the Governor the opportunity to reconsider a proposed referendum, either re-approving it or allowing the statute or statutes to become void or to expire at the end of the year.
- l) To instruct the Secretary of State to submit to the electors any re-approved referendum that has obtained valid signatures equal in number to 5 percent of the votes of all candidates for Governor at the last gubernatorial election.

SECTION 4. Article II, Section 8 of the California Constitution is hereby amended to read:

(a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) The Legislative Counsel shall be made available on a confidential basis to prospective initiative proponents to assist in the drafting of appropriate wording, determine how best to integrate the proposal into existing law, identify potential constitutional or other legal problems that may be raised by the proposal, and work with the requesters to resolve those problems.

~~(c) An initiative measure may be proposed by presenting to the Secretary of State a petition asking that the proposed changes be submitted to the electors, accompanied by a deposit in the amount of \$500, adjusted for the change in the cost of living, or a lesser amount otherwise established by law. If the initiative measure is certified as having obtained the necessary number of valid signatures the deposit shall be refunded. a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.~~

(d) Upon receipt of a request and deposit, the Secretary of State shall have the Attorney General prepare a fair, objective and concise title and summary of the statute or amendment to the Constitution being submitted for the proposed initiative measure.

(e) The Secretary of State shall prepare a petition form in a size and format such that it will fit on one side of a standard, 8-1/2 x 11 inch sheet of paper. The form shall consist of at least the following: The title and

summary as prepared by the Attorney General; a section to indicate the county wherein the petition is being circulated and the signers must be registered to vote; a section for the signature, printed name, and residence address of at least one registered voter (and room for as many additional names as will fit on the paper), along with a statement clarifying that the petition will be valid even if all the available spaces for signatures are not used, if the petition provides room for more than one signer; a section for the Declaration of Circulator; an address for the Secretary of State to which all petitions must be submitted; instructions to segregate submissions by county of circulation; the date by which all petitions must be received; and a Uniform Resource Locator (URL) indicating an Internet site maintained by the Secretary of State at which the text of the measure, the petition form and clear instructions for the use of the petition form shall be available.

(f) No later than 25 days after the receipt of a request and deposit, the Secretary of State shall place the full text of the statute or amendment to the Constitution on its website along with the petition form for the proposed measure and the instructions for the use of the petition form. The petition form shall be made available in a format or formats such that it can be easily downloaded and printed on a standard 8-1/2 x 11 inch sheet of paper. If the 25th day of the period within which the Secretary of State is required to perform an act pursuant to this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(g) Prior to proponents circulating petitions and the Secretary of State placing its petition form on its website, proponents of the measure shall form a committee primarily to support the qualification of the measure and file a campaign statement disclosing those donors contributing \$10,000 or more toward the qualification expenses of the measure. Committees formed or existing primarily to support or oppose the qualification of a measure and proponents of such a measure who control a committee formed or existing primarily to support the qualification of a measure shall file a monthly campaign statement within ten days after the close of each calendar month until the close of the calendar month following the deadline for filing petitions or the qualification of the measure for the ballot, whichever is earlier. Such disclosures shall be in addition to those required elsewhere by law.

(h) Circulators shall make available for viewing upon request of an elector the title and summary as prepared by the Attorney General along with the full text of the statute or amendment to the Constitution. It shall not be required that the full text of the statute or amendment to the Constitution nor the instructions be included in the petition being circulated.

(i) It shall not be required that the petition form created by the Secretary of State be the only valid format available to circulators. The proponents may prepare and submit for approval two blank copies of each petition form to the Secretary of State for verification that petition formatting requirements are met. If the Secretary of State finds that the requirements are not met, then he or she shall include in his or her findings a statement as to what alterations in the petition are necessary. The proponents may after receiving the notification file two blank copies of the corrected petition with the Secretary of State in his or her office during normal office hours as posted. The proponents may repeat the process of filing corrected petitions and receiving correction notification until the Secretary of State finds no alterations are required. It shall not be required that the proponents seek approval of their petition forms.

(j) Individual petition sheets containing signatures may be submitted to the Secretary of State at any time during a 365 day signature gathering period beginning after the Secretary of State has made the petition form available on the Internet. If the 365th day of the signature gathering period is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday. It shall not be required that petitions be submitted contemporaneously.

(k) The Secretary of State shall keep a running count of the number of signatures submitted, and shall post an updated count on the Internet within 5 business days of receipt of each petition sheet.

(l) Verification of signatures by sampling methods shall begin no later than 5 business days after the running count of the number of signatures submitted exceeds 100,000. The Secretary of State shall

thereafter post a count no less frequently than weekly of the estimated number of valid signatures received, and shall certify the petition as having qualified as soon as the sample-verified total reaches 105% of the required number.

(m) If at the end of the signature gathering period the number of signatures submitted results in a sample-verified total that is between 95% and 105% of the required number, a complete verification of all signatures shall be performed.

(n) If at anytime during the signature gathering period the Secretary of State has received petitions that are subsequently certified to have been signed by 100,000 electors, asking that the proposed statute be submitted to the electors, the Secretary of State shall promptly notify the proponents and both houses of the Legislature of the certification.

(o) After a proposed measure has been certified as having obtained the necessary number of valid signatures pursuant to subdivision (n), the Legislature shall hold and complete a committee hearing which shall receive testimony on the initiative. The hearing may be held jointly by the Senate and the Assembly. The proponents of the initiative and any other person interested in the hearing shall be given at least three days notice of the hearing. Each committee or the joint committee shall recommend to the full Legislature whether or not it should enact the initiative into law with or without amendments.

(p) If at anytime during the signature gathering period the Secretary of State has received petitions that are subsequently certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election in the case of a proposed statute and 8 percent in the case of a proposed amendment to the Constitution, asking that the measure be submitted to the electors, the Secretary of State shall within 5 days notify the proponents and both houses of the Legislature of the certification.

(q) Following certification by the Secretary of State that an initiative proposing a statute has qualified for the ballot, the proponents of the initiative may withdraw the initiative from the ballot if the Legislature enacts and the Governor signs the measure as drafted or an alternative acceptable to the proponents that furthers the purposes of the measure, or places the acceptable alternative on the ballot.

~~(r)~~ *(r) In the event the proposed initiative has qualified for the ballot and is not withdrawn by the proponents, the* The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

~~(s)~~ *(s) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect.*

~~(t)~~ *(t) An initiative measure shall not include or exclude any political subdivision of the State from the application or effect of its provisions based upon approval or disapproval of the initiative measure, or based upon the casting of a specified percentage of votes in favor of the measure, by the electors of that political subdivision.*

~~(u)~~ *(u) An initiative measure shall not contain alternative or cumulative provisions wherein one or more of those provisions would become law depending upon the casting of a specified percentage of votes for or against the measure.*

SECTION 5. Article II, Section 9 of the California Constitution is hereby amended to read:

(a) The referendum is the power of the electors to approve or reject statutes or parts of statutes, *including but not limited to statutes previously approved by the electorate*, except ~~urgency statutes~~, statutes calling

elections, and *parts of* statutes providing for ~~tax levies or~~ appropriations for usual current expenses of the State.

(b) The Legislative Counsel shall be made available on a confidential basis to prospective referendum proponents to assist in the drafting of appropriate wording, determine how best to integrate the proposal into existing law, identify potential constitutional or other legal problems that may be raised by the proposal, and work with the requesters to resolve those problems.

~~(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.~~ *a request to circulate a petition asking that the statute or statutes, or parts thereof, be submitted to the electors, accompanied by a deposit in the amount of \$500, adjusted for the change in the cost of living, or a lesser amount otherwise established by law. If the referendum measure is certified as having obtained the necessary number of valid signatures, or an affected statute is repealed or otherwise fails to become law on or before the end of the signature gathering period, the deposit shall be refunded.*

~~(e) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.~~ *(c) Upon receipt of a request and deposit, the Secretary of State shall have the Attorney General prepare a fair, objective and concise title and summary of the statute or statutes, or parts thereof, which are being submitted for the referendum.*

(d) The Secretary of State shall prepare a petition form in a size and format such that it will fit on one side of a standard, 8-1/2 x 11 inch sheet of paper. The form shall consist of at least the following: The title and summary as prepared by the Attorney General; a section to indicate the county wherein the petition is being circulated and the signers must be registered to vote; a section for the signature, printed name, and residence address of at least one registered voter (and room for as many additional names as will fit on the paper), along with a statement clarifying that the petition will be valid even if all the available spaces for signatures are not used, if the petition provides room for more than one signer; a section for the Declaration of Circulator; an address for the Secretary of State to which all petitions must be submitted; instructions to segregate submissions by county of circulation; the date by which all petitions must be received; and a Uniform Resource Locator (URL) indicating an Internet site maintained by the Secretary of State at which the text of the statute or statutes and the petition form and clear instructions for the use of the petition form shall be available.

(e) No later than 15 days after the receipt of a request and deposit, the Secretary of State shall place the full text of the statute or statutes on its website along with the petition form for the requested referendum and the instructions for the use of the petition form. The petition form shall be made available in a format or formats such that it can be easily downloaded and printed on one side of a single sheet of paper. If the 15th day of the period within which the Secretary of State is required to perform an act pursuant to this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(f) Prior to proponents circulating petitions and the Secretary of State placing its petition form on its website, proponents of the measure shall form a committee primarily to support the qualification of the measure and file a campaign statement disclosing those donors contributing \$10,000 or more toward the qualification expenses of the measure. Committees formed or existing primarily to support or oppose the qualification of a measure and proponents of such a measure who control a committee formed or existing primarily to support the qualification of a measure shall file a monthly campaign statement within ten days

after the close of each calendar month until the close of the calendar month following the deadline for filing petitions or the qualification of the measure for the ballot, whichever is earlier. Such disclosures shall be in addition to those required elsewhere by law.

(g) Circulators shall make available for viewing upon request of an elector the title and summary as prepared by the Attorney General along with the statute or statutes, or parts thereof, being submitted to the electors. It shall not be required that the text of any statute nor the instructions be included in the petition being circulated.

(h) It shall not be required that the petition form created by the Secretary of State be the only valid format available to circulators. The proponents may prepare and submit for approval two blank copies of each petition form to the Secretary of State for verification that petition formatting requirements are met. If the Secretary of State finds that the requirements are not met, then he or she shall include in his or her findings a statement as to what alterations in the petition are necessary. The proponents may after receiving the notification file two blank copies of the corrected petition with the Secretary of State in his or her office during normal office hours as posted. The proponents may repeat the process of filing corrected petitions and receiving correction notification until the Secretary of State finds no alterations are required. It shall not be required that the proponents seek approval of their petition forms.

(i) Individual petition sheets containing signatures may be submitted to the Secretary of State at any time during a 365 day signature gathering period beginning after the Secretary of State has made the petition form available on the Internet. If the 365th day of the signature gathering period is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday. It shall not be required that petitions be submitted contemporaneously.

(j) The Secretary of State shall keep a running count of the number of signatures submitted, and shall post an updated count on the Internet within 5 business days of receipt of each petition sheet.

(k) Verification of signatures by sampling methods shall begin no later than 5 business days after the running count of the number of signatures submitted exceeds 100,000. The Secretary of State shall thereafter post a count no less frequently than weekly of the estimated number of valid signatures received, and shall certify the petition as having qualified as soon as the sample-verified total reaches 105% of the required number.

(l) If at the end of the signature gathering period the number of signatures submitted results in a sample-verified total that is between 95% and 105% of the required number, a complete verification of all signatures shall be performed.

(m) If at anytime during the signature gathering period the Secretary of State has received petitions that are subsequently certified to have been signed by 100,000 electors, asking that the statute, statutes or parts thereof be submitted to the electors, the Secretary of State shall promptly notify the proponents and both houses of the Legislature of the certification.

(n) After a proposed referendum measure has been certified as having obtained the necessary number of valid signatures pursuant to subdivision (m), the Legislature shall within 25 session days after being notified by the Secretary of State reconsider the statute, statutes or parts thereof in their entirety without amendment.

(o) If at the end of the 25 days either house of the Legislature has failed to re-approve the statute, statutes, or parts thereof, in their entirety without amendment, with the majority concurrence of its membership, each by rollcall vote entered in the journal, or if the Governor vetoes the statute or statutes within 12 days after re-approval by the Legislature and the Legislature subsequently fails to over-ride the Governor's veto within 12 days by two-thirds of the membership of each house of the Legislature, each by rollcall vote entered in the journal, the statute, statutes, or parts thereof, not previously approved by the electorate shall be considered void and shall not take effect or, if already in effect, shall remain in effect through the

following December 31. If the 12th day of the period within which the Governor is required to perform an act pursuant to this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday. Any statute, statutes, or parts thereof, previously approved by the electorate shall remain in effect notwithstanding any action or inaction by the Legislature.

(p) Any statute, statutes, or parts thereof, not re-approved pursuant to subdivision (o) and not previously approved by the electorate shall not be submitted to the electors.

(q) If the statute, statutes, or parts thereof, are re-approved pursuant to subdivision (o) and if at anytime during the signature gathering period the Secretary of State has received petitions that are subsequently certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or statutes be submitted to the electors, the Secretary of State shall within 5 days notify both houses of the Legislature of the certification, and shall submit the measure at the next general or special statewide election held at least 131 days after the certification and re-approval, whichever is later.

(r) If the statute, statutes, or parts thereof, are not re-approved pursuant to subdivision (o) and if at anytime during the signature gathering period the Secretary of State has received petitions that are subsequently certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or statutes be submitted to the electors, the Secretary of State shall within 5 days notify the proponents and both houses of the Legislature of the certification, and shall submit at the next general or special statewide election held at least 131 days after the certification, the portions of the measure previously approved by the electorate. The Governor may call a special statewide election for the measure.

(s) A majority casting a "yes" vote on the ballot question shall be required to re-approve the statute, statutes or parts thereof.

(t) A referendum measure embracing more than one subject may not be submitted to the electors or have any effect.

SECTION 6. Article II, Section 10 (c) (3) of the California Constitution is hereby amended to read:

~~(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.~~

SECTION 7. Article IV, Section 8 (c) (2) of the California Constitution is hereby amended to read:

~~(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.~~

Notwithstanding the above, no statute, statutes or parts thereof for which a request to circulate a referendum petition has been submitted to the Secretary of State no later than 60 days before its effective date shall take effect until either of the following occurs:

(A) The number of signatures received by the Secretary of State no later than 15 days before the effective date is insufficient to qualify the statute, statutes or parts thereof for reconsideration by the

Legislature. If the 15th day before the effective date is a Saturday, Sunday, or holiday, the deadline is extended to the next day that is not a Saturday, Sunday, or holiday.

- (B) The relevant statute or statutes have been re-enacted as an urgency statute pursuant to Subdivision (d) of Section 8 of Article IV, in which case the statute or statutes shall go into effect immediately.*
- (C) The relevant statute or statutes have been re-enacted pursuant to Subdivision (o) of Section 9 of Article II, in which case the statute or statutes shall go into effect on January 1 next following the re-enactment date or the 91st day after the re-enactment date, whichever is sooner, unless the number of signatures received during the signature gathering period by the Secretary of State no later than 15 days before the new effective date is sufficient to qualify the referendum for the ballot. If the 15th day before the new effective date is a Saturday, Sunday, or holiday, the deadline is extended to the next day that is not a Saturday, Sunday, or holiday.*
- (D) The number of signatures received by the Secretary of State by the 365th day of the signature gathering period is insufficient to qualify the referendum for the ballot. If the 365th day of the signature gathering period is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.*
- (E) The referendum has been submitted to and approved by the electors.*

SECTION 8. Article IV, Section 8 (c) (3) of the California Constitution is hereby amended to read:

(3) Statutes calling elections, statutes providing for ~~tax levies or~~ appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

SECTION 9. Article IV, Section 10 (c) of the California Constitution is hereby amended to read:

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for ~~tax levies or~~ appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

SECTION 10. Broad Construction.

- a) The provisions of this act shall be liberally construed and broadly applied in order to effectuate its underlying purposes of removing obstacles to and facilitating the exercise of the initiative and referendum powers and to be consistent with the United States Constitution and the California Constitution.
- b) If any provision of this act conflicts directly or indirectly with any other provision of law, or any other statute previously enacted by the Legislature, those other provisions shall be null and void to the extent that they are inconsistent with this act, and are hereby repealed.

SECTION 11. Conflicting Ballot Measures.

- a) In the event that this measure and another measure or measures relating to initiative and referendum procedures in this state shall appear on the same statewide election ballot, the provisions of the other measures that would affect in whole or in part the field of initiative and referendum procedures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety and the provisions of the other measure or measures shall be null and void in their entirety. In the event that the other measure or measures shall receive a greater number of affirmative votes, the provisions of this measure shall take effect to the extent permitted by law.
- b) If this measure is approved by voters but superseded by any other conflicting ballot measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SECTION 12. Court Challenges.

In any action for declaratory or injunctive relief, or for relief by way of any extraordinary writ, wherein the construction, application, or validity of this measure or any part thereof is called into question, a court shall not grant any temporary restraining order, preliminary or permanent injunction, or any preemptory writ of mandate, certiorari, or prohibition, or other provisional or permanent order to restrain, stay, or otherwise interfere with the operation of the act except upon a finding by the court, based on clear and convincing evidence, that the public interest shall be prejudiced thereby, and no such order shall effective for more than 15 calendar days. A court shall not restrain any part of this act except the specific provisions that are challenged.

SECTION 13. Amendment of Act.

No provision of this act may be amended except by a Constitutional amendment that becomes effective only when approved by the electorate.

SECTION 14. Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect in the absence of the invalid provision or application. To this end, the provisions of this act are severable.