

Agenda Report

TO: CITY COUNCIL

DATE: APRIL 10, 2006

FROM: CITY CLERK

SUBJECT: QUALIFICATION OF INITIATIVE PETITION "PROPOSAL FOR THE NATIONAL FOOTBALL LEAGUE RENOVATION OF THE ROSE BOWL STADIUM FOR PROFESSIONAL FOOTBALL USE"

RECOMMENDATION:

It is recommended that the City Council:

- (1) Receive and accept the City Clerk's certification that based upon the examination and verification of signatures by the Los Angeles County Registrar-Recorder's Office, the initiative petition submitted for "Proposal for the National Football League Renovation of the Rose Bowl Stadium for Professional Football Use" contains a sufficient number of valid signatures to place the proposed initiative on a special election ballot.

(2) Pursuant to California Election Code Section 9214, the City Council shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Immediately order a special election, to be held pursuant to Election Code Section 1405(a), at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city; set the date for the election; direct the City Attorney's Office and City Clerk's Office to return to the Council on April 24, 2006, with all documents necessary to call the election; and adopt a resolution to this effect.

(c) Order a report on the effect of the proposed initiative at the regular meeting at which the certification of the petition is presented. The report shall be presented to the City Council no later than 30 days after the City Clerk certifies to the City Council the sufficiency of the petition. When the report is presented, the City Council shall either adopt the ordinance within 10 days or order a special election.

BACKGROUND:

The proponents of the initiative petition are Councilmembers Chris Holden, Joyce Streator, and Paul Little. On February 21, 2006, the initiative petition was timely filed with the City Clerk's Office. On February 22, 2006, the petition was delivered to the Los Angeles County Registrar-Recorder's Office for signature verification as provided in Sections 9211, 9114 and 9115 of the California Elections Code. Pursuant to California Elections Code Section 9114, the City Clerk is required to certify the results of the signature verification to the City Council.

Verification Results

The results of the signature verification are set forth in the attached certification by the City Clerk. Based on these results, the City Clerk is certifying that the petition meets the 15% valid signature requirement of registered voters to place the measure on a special election ballot. At the time the notice of intention and ballot title and summary were published by the proponents, the Registrar-Recorder's last report of registration showed Pasadena's registration as 65,440. In order for the petition to qualify for a special election and meet the 15% requirement, the petition must contain at least 9,816 valid signatures of registered voters of the city.

The Los Angeles County Registrar-Recorder/County Clerk completed the signature verification for the petition, and reported to the City Clerk 10,129 valid signatures. This number includes all valid signatures on the petition sections, including those sections where there are problems with circulators. California Elections Code Section 9209 provides that the circulator must be a registered voter or qualified to register as a voter of the city. Of the 10,129 valid signatures the County Registrar verified, the City Clerk is certifying **10,065** as valid, as there were problems with circulators on the petition sections containing the remaining 64 signatures (38 signatures were on petition sections from circulators residing outside of the city limits; 23 signatures were on petition sections from a circulator whose registration was cancelled due to a felony; and 3 signatures were from a petition section where the circulator's declaration was completely blank). A lawsuit was filed in Los Angeles Superior Court, Pasadena First, et al. v. Rodriguez, et al. (LASC Case No. GS009023), challenging various aspects of the initiative petition, as discussed below. In correspondence to the City Clerk, Plaintiffs in that action have raised issues pertaining to circulators who may not be domiciled in the city limits. The City Clerk has not included in the final certification number of 10,065 those valid signatures of petition sections where the circulators reside outside the city limits, where the circulator's registration was cancelled due to a felony, and the blank circulator's declaration.

Election Timing/Report on the Effect of the Proposed Initiative

California Elections Code Section 9214 provides that if the initiative petition is signed by not less than 15 percent of the voters of the city and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do one of the following: adopt the ordinance without alteration within 10 days, immediately order a special election, or order a report on the effect of the initiative.

Copies of Elections Code Sections 1405, 9212 and 9214 pertaining to the calling of an election are attached. For an initiative petition that has qualified for a special election ballot, the election shall be held not less than 88 nor more than 103 days after the date of the order of the election. If the City Council were to immediately order a special election (without ordering a report on the impacts), Tuesday, July 11, or Tuesday, July 18, fall within the 88 to 103-day period. If on April 10, the City Council orders a report on the effects of the initiative, the report must be presented no later than 30 days thereafter. Elections Code Section 9212 details the information the Council may request in the report. When the report is presented, the Council has the option of adopting the ordinance, without alteration, or ordering a special election. If the Council scheduled a stand-alone special election at that time, the dates of Tuesday, August 8 or August 15 fall within the 88-103 timeframe. It is estimated a stand-alone special election would cost in the low \$200,000's (excluding translation costs of the text of the measure and its numerous exhibits/attachments, which may be a considerable amount).

In considering the election timing, Elections Code Section 1405(a)(2) provides an exception to the 88-103 timeframe: *"When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section . . . 9214 . . . during the period between a regularly scheduled statewide direct primary election and a regularly scheduled statewide general election in the same year, the election on the initiative measure may be held on the same date as, and be consolidated with, the statewide general election."*

It is too late to place a measure on the June 6, 2006 state primary ballot, as the minimum 88-day requirement cannot be met. However, in accordance with Elections Code Section 1405(a)(2), the special election on the initiative may be consolidated with the November 7, 2006 state general election. The County Registrar-Recorder's Office has provided the City Clerk with a cost estimate of \$122,000 (excluding translation costs) to consolidate and place a measure on this ballot.

Procedural Requirements in Verifying the Initiative Petition/Legal Challenges

A lawsuit was filed in Los Angeles Superior Court, Pasadena First, et al. v. Rodriguez, et al. The lawsuit challenges the validity of the proposed initiative and raises five issues: (1) the NFL initiative violates Article 11, Section 12 of the California Constitution because it “gives broad powers and assigns multiple functions to the NFL and its teams, as well as to the Rose Bowl Operating Company;” (2) the NFL initiative is beyond the local electorate’s power because it forces the Pasadena City Council to enter into a lease with the NFL; (3) the NFL initiative does not enact any law or legislation and merely offers a set of deal points to the NFL, which the NFL remains free to accept or reject; (4) since the NFL does not have a legal or equitable interest in the Rose Bowl, it cannot enter into an agreement to develop the Rose Bowl; and (5) the initiative does not comply with the “full text” requirement of the Elections Code because the text of the petition does not include existing law (strike-out text of current language in the Municipal Code proposed to be deleted) and the petition does not include copies of all documents that are referenced in the initiative and are necessary to understand it.

The City Clerk’s ministerial duties in certifying the petition pertain to the examination of the petition and whether the petition is signed by the requisite number of signatures. The election official also reviews the petition as to procedural requirements (format of the petition, required font sizes, whether specified language required in the Election Code is contained on the petition and in the proper sequence, etc.). The first four issues raised in the lawsuit raise “substantive” challenges to the initiative, are beyond the ministerial duties of the City Clerk to decide, and are best addressed by the Superior Court in the current litigation. The alleged procedural defect raised by Plaintiffs (Item 5, above) and alleged defects raised in additional correspondence from Plaintiffs’ legal counsel to the City Clerk are responded to below.

(1) Allegation that the petition does not contain the full text of the measure and copies of all referenced documents. Plaintiffs argue that the petition is defective in that it does not contain the current language in the Pasadena Municipal Code (PMC) that is being deleted, thus the voter does not know what is being changed. The Electionis Code does not define the term “full text” and the City Clerk is unable to find a specific requirement that current language proposed to be deleted and new language must have strike-out/italics or a redlined version of the proposed changes. However, it should be noted that usually text in a measure proposed to be changed is reflected by strike-out and italics or underlining.

Sections 1–3 and 5–8 of the initiative have new proposed ordinance language that does not amend the Pasadena Municipal Code. However, Section 4 of the petition amends Chapter 3.32 of the PMC. The proposed language in Section 4

of the petition has been compared with the current language in Chapter 3.32, and in all but one instance (where the number of displacement events referenced in Section 3.32.260(A)(3) is changed from the number 12 to 25), the initiative is adding new language to Chapter 3.32, not deleting current language. The change in the number of events is the one instance where text is deleted and replaced with new text. The “lead-in” sentence for this section change does alert the voter that the number of displacement events is changed, and the new number “25” in the text is in bold and italics. The other revisions to Chapter 3.32 of the PMC are adding text to what is already in the Code, and this language is reflected in italics.

Since the term “full text” is not defined and is open to interpretation, and the City Clerk has been unable to find a requirement in the Elections Code that revised language must be reflected by strike-out/italics or underlining, and there is only one instance where a strike-out would apply for deleted text (number of events changed from 12 to 25), this does not appear to be a procedural defect that rises to the level required to preclude certification of the petition.

As to the issue of the petition not containing copies of all referenced documents, Plaintiffs do not state what documents are omitted and are key for the voters to understand the proposed initiative. It is noted that the original filing of the notice of intention and proposed text (first filing at the beginning of the process) is a document almost 100 pages long, and includes numerous attachments and exhibits. Each petition section is 68 pages long (on legal size paper and reformatted) and includes the numerous attachments and exhibits. One would be hard pressed to say that key documents to understand the proposed initiative are omitted. Since the term “full text” is not defined and is open to interpretation, and given the extent to which the petition includes numerous attachments and exhibits, there does not appear to be grounds for the City Clerk to reject the petition as a ministerial act.

(2) Allegation that the petition does not contain petitioning language requesting that the City Council take a specific action – adopt the ordinance or put it to a vote of the people. Plaintiffs cite required petitioning language in Elections Code Section 9001, but this section applies specifically to state elections for initiative or referendum. This is a local initiative, not a state initiative. The petition contains the wording required in Elections Code Section 9203 which specifically applies to municipal initiative petitions.

(3) Allegation that the petition does not request a special election. On page 1 of the petition, there are two requests for a special election. The first request is in the Notice of Intention, which states “*The purpose of this Initiative is to have the voters of the City of Pasadena adopt ordinances . . . at a special election to be held as quickly as is allowed by law.*” The second request for a special election also appears on page 1 of the petition, fourth paragraph of the

text, which states, “*We, the people of the City of Pasadena believe that the voters of the City should be asked to make this decision on behalf of the entire City, and therefore, we request that a special election be called by the City of Pasadena at which this measure may be voted upon by the people of the City of Pasadena.*” The petition does request a special election in two separate places, and Plaintiffs’ claim that the measure can only be presented at a regular election is without merit.

The City Clerk has addressed alleged procedural defects raised by Plaintiffs. Constitutional and legal issues raised by Plaintiffs are beyond the scope of the City Clerk’s ministerial duties, and are best addressed through the litigation already filed in the Superior Court. The City Clerk is certifying the petition based on procedural requirements in the Elections Code.

City Attorney’s Office Statement Regarding Legal Issues

The City Attorney’s Office is mindful of the strong public policy statement by the California Supreme Court and other courts that “[T]he initiative power must be *liberally construed* to promote the democratic process. Indeed, it is our solemn duty to jealously guard the precious initiative power, and to resolve any doubts in favor of its exercise.”¹

In the recent litigation regarding the Oaks Initiative, the City was admonished by the Court not to consider the asserted constitutional infirmity of a ballot measure in carrying out its ministerial duties. In other words, the Court has indicated that the role of City staff, including the City Attorney’s Office, is to perform ministerial duties without regard to constitutional issues.

Accordingly, the Office has preliminarily determined that no one alleged “procedural” defect alone, nor all such issues together, are of sufficient gravity that staff can, as a ministerial matter, invalidate the initiative on procedural grounds and prevent its going forward. Those issues should be examined by the Superior Court in the pending litigation, if the parties to that litigation feel there is merit in doing so, prior to the time set for the election.

The City Attorney’s Office has also preliminarily reviewed those “substantive” challenges to the validity of the initiative. Again, while there may be some merit to one or more of those substantive challenges, these challenges are based on complex questions of fact and law which should be resolved by the Superior Court in the pending litigation. This Office is of the opinion that none of the

¹ *Legislature of State of Cal. v. Eu* (1991) 54 Cal.3d 492, 501; see also *Associated Home Builders v. City of Livermore* (1976) 18 Cal.3d 582, 591; *Memorial Hospitals Assn. v. Randol* (1995) 38 Cal.App.4th 1300, 1306; *Save Stanislaus Area Farm Economy v. Board of Supervisors* (1993) 13 Cal.App.4th 141, 150-151; *Baylis v. Limber* (1972) 26 Cal.App.3d 463, 468.

issues are clear cut enough that staff can, or should, as a ministerial matter, take the lead to invalidate the initiative and refuse to proceed with it further.

If the City Council directs a particular course of action with respect to a legal challenge, this Office would be obligated to pursue it, as long as consistent with the ethical obligations of an attorney in government practice.

Election Options

If the City Council decides to consolidate this special election with the November 7, 2006 state general election, the election would be administered by the Los Angeles County Registrar-Recorder/County Clerk, and there would be a small workload impact to City staff in processing the measure and arguments, and coordinating translation of the ballot material into Spanish and Chinese. This election is conducted with traditional polling sites and voters have the option of voting by absentee/mail ballots.

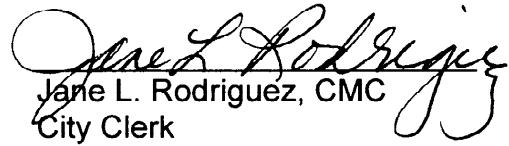
If the City Council decides to have a stand-alone special election, the City Clerk's Department would administer this election and there would be a significant workload impact. The biggest problem in administering an election in such a short timeframe (88-103 days) is in securing polling sites and poll workers. As a Charter city, in calling a special election, the City Council may want to consider conducting an all-mail ballot election if a stand-alone special election is called. The City Council would need to adopt an ordinance authorizing this special election to be conducted by mail in accordance with the process set forth in the Election Code. The estimated cost of conducting a stand-alone election by mail is \$200,000 (excluding translation costs).

FISCAL IMPACT:

The cost of the Registrar-Recorder's signature verifications is estimated to be approximately \$10,000. The City Clerk's Department FY 2006 budget can absorb the cost of signature verification. To consolidate the special election with the November 7, 2006 state general election would cost approximately \$122,000 (excluding translation costs), based on an estimate by the County. To conduct a stand-alone special municipal election would cost approximately \$200,000 - \$220,000, depending on whether the election is a traditional polling place election (high range) or an all-mail ballot election (low range). The above estimates do not include translation costs for the ballot measure text (almost 100 pages long with exhibits) into Spanish and Chinese (languages which meet the 3% threshold for translations). When formal resolutions are presented to Council to call the special election, staff will include a cost estimate for translation costs, which will increase the above estimated election cost. At the appropriate time in the upcoming FY 2007 budget process, the City Clerk's Department election

budget will need to be increased, depending on the selected election (stand-alone or consolidated with the November state general election).

Respectfully submitted,



Jane L. Rodriguez
Jane L. Rodriguez, CMC
City Clerk

Reviewed by:



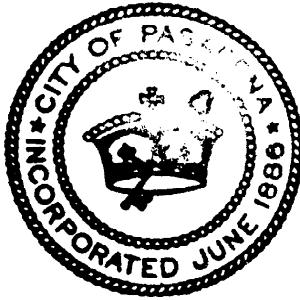
Michele Beal Bagneris
City Attorney

**CERTIFICATE OF RESULTS
EXAMINATION OF INDIVIDUAL SIGNATURE VERIFICATION**

I HEREBY CERTIFY that I have caused to be examined and verified by the Office of the Registrar-Recorder of Los Angeles County, the signatures of the initiative petition "Proposal for the National Football League Renovation of the Rose Bowl Stadium for Professional Football Use", with the following results:

Total Number of Signatures Filed	16,919
Total Number of Signatures Verified	16,919
Total Number of Signatures Found Sufficient	10,065
Total of Number of Signatures Found Not Sufficient	6,854
Number of Registered Voters in the City (Report dated September 10, 2005)	65,440
Number of Signatures Needed to Qualify (15%)	9,816

I HEREBY CERTIFY that the initiative petition entitled "Proposal for the National Football League Renovation of the Rose Bowl Stadium for Professional Football Use" qualifies for a special election ballot.



Jane L. Rodriguez
Jane L. Rodriguez, CMC
City Clerk

Dated: April 6, 2006

CITY OF PASADENA PAYROLL CALENDAR - 2006

JANUARY

S	M	T	W	T	F	S
	1	2	3	(4)	5	6
8	9	10	11	12	13	14
15	16	17	(18)	19	20	21
(22)	23	24	25	26	27	28
29	30	31				

FEBRUARY

S	M	T	W	T	F	S
			1	2	(3)	4
(5)	6	7	8	9	10	11
12	(13)	14	(15)	16	(17)	18
(19)	(20)	21	22	23	24	25
26	27	28				

MARCH

S	M	T	W	T	F	S
			1	2	(3)	4
(5)	6	7	(8)	9	10	11
12	13	14	(15)	16	(17)	18
(19)	20	21	(22)	23	24	25
26	27	28	(29)	30	(31)	

APRIL

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(16)	17	18	19	20	21	22
23	24	25	(26)	27	(28)	29
(30)						

MAY

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(14)	15	16	17	18	19	20
21	22	23	(24)	25	(26)	27
(28)	(29)	30	31			

JUNE

S	M	T	W	T	F	S
			1	2	3	
4	5	6	(7)	8	(9)	10
(11)	12	13	14	15	16	17
18	19	20	(21)	22	(23)	24
(25)	26	27	28	29	30	

JULY

S	M	T	W	T	F	S
			1			
2	3	(4)	(5)	6	(7)	8
(9)	10	11	12	13	14	15
16	17	18	(19)	20	(21)	22
(23)	24	25	26	27	28	29
30	31					

AUGUST

S	M	T	W	T	F	S
			1	(2)	3	(4)
(6)	7	8	9	10	11	12
13	14	15	(16)	17	(18)	19
(20)	21	22	(23)	24	25	26
27	28	29	(30)	31		

SEPTEMBER

S	M	T	W	T	F	S
			1	2		
(3)	(4)	5	6	7	8	9
10	11	12	(13)	14	(15)	16
(17)	18	19	20	21	22	23
24	25	26	(27)	28	(29)	30

OCTOBER

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22	23	24	(25)	26	(27)	28
(29)	30	31				

NOVEMBER

S	M	T	W	T	F	S
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(12)	13	14	15	16	17	18
19	20	21	(22)	(23)	(24)	25
(26)	27	28	29	30		

DECEMBER

S	M	T	W	T	F	S
			1	2		
3	4	5	(6)	7	(8)	9
(10)	11	12	13	14	15	16
17	18	19	(20)	21	(22)	23
(24)	(25)	26	27	28	29	30
31						

Jan. 2 New Years (Observed)
 Jan. 16 Martin Luther King Jr. Day
 Feb. 13 Lincoln's Birthday (Observed)
 Feb. 20 Washington's Birthday
 May 29 Memorial Day
 July 4 Independence Day

Sept. 4 Labor Day
 Nov. 10 Veterans Day (Observed)
 Nov. 23 Thanksgiving Day
 Nov. 24 Day after Thanksgiving
 Dec. 25 Christmas Day
 Floating Holiday
 (Replaces Admissions Day)

- End of pay period
- Holidays
- Paydays
- ▲ "Whoopie" - Payday
- 9/80 Plan Closed Friday
- Holiday on 9/80

9180.

DIVISION 9. MEASURES SUBMITTED TO THE VOTERS

This section shall only apply if the board of supervisors adopts this section.

(Added by Stats. 1994, c. 920, §2.)

Article 5. Public Examinations

9190. Public examination of proposed ordinances, measures and arguments.

(a) The county elections official shall make a copy of the materials referred to in Sections 9119, 9120, 9160, 9162, and 9167 available for public examination in the county elections official's office for a period of 10 calendar days immediately following the deadline for submission of those materials. Any person may obtain a copy of the materials from the county elections official for use outside of the county elections official's office. The county elections official may charge a fee to any person obtaining a copy of the material. The fee may not exceed the actual cost incurred by the county elections official in providing the copy.

(b) (1) During the 10-calendar-day public examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the county elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-calendar-day public examination period.

(2) A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(3) The county elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the county elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

(Amended by Stats. 2002, c. 228, §4.)

Chapter 3. Municipal Elections

Article 1. Initiative

9200. Scope of article.

Ordinances may be enacted by and for any incorporated city pursuant to this article.

(Added by Stats. 1994, c. 920, §2.)

9201. Proposed ordinance may be submitted by petition.

Any proposed ordinance may be submitted to the legislative body of the city by a petition filed with the elections official of the legislative body, in the manner hereinafter prescribed, after being signed by not less than the number of voters specified in this article. The petition may be in separate sections, providing that the petition complies with this article. The first page of each section shall contain the title of the petition and the text of the measure. The petition sections shall be designated in the manner set forth in Section 9020.

(Added by Stats. 1994, c. 920, §2.)

9204.

Chapter 3. Municipal Elections

This section shall only apply if the board of supervisors adopts this section.

(Added by Stats. 1994, c. 920, §2.)

9202. Notice of intent to circulate, filing, form.

(a) Before circulating an initiative petition in any city, the proponents of the matter shall file with the elections official a notice of intention to do so, which shall be accompanied by the written text of the initiative and may be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed petition. The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(b) Any person filing a notice of intent with the elections official shall pay a fee to be established by the legislative body not to exceed two hundred dollars (\$200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the elections official certifies the sufficiency of the petition.

(Added by Stats. 1994, c. 920, §2.)

9203. Proposed measure, title and summary.

(a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the elections official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The elections official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and return to the city elections official a ballot title for and summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12 point the ballot title prepared by the city attorney. The text of the measure shall be printed in type not smaller than 8 point.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to be Submitted Directly to the Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure.

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

(Amended by Stats. 1999, c. 312, §21.)

9204. Title or summary; writ of mandate.

Any elector of the city may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended. The court shall

9204.

DIVISION 9. MEASURES SUBMITTED TO THE VOTERS

Chapter 3. Municipal Elections

9212.

expedithe hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9203.

(*Amended by Stats. 2002, c. 237, §2.*)

9205. Where notice is published or posted.

A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Chapter 1 (commencing with Section 6000) of Division 7 of Title 1 of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

(*Added by Stats. 1994, c. 920, §2.*)

9206. Filing of publication affidavit.

Within 10 days after the date of publication or posting, or both, of the notice of intention and title and summary, the proponents shall file a copy of the notice and title and summary as published or posted together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

If the notice and title and summary are both published and posted pursuant to subdivision (b) of Section 9205, the proponents shall file affidavits as required by this section made by a representative of the newspaper in which the notice was published certifying to the fact that the notice was published and by a voter of the city certifying to the fact that the notice was posted.

These affidavits, together with a copy of the notice of intention and title and summary, shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours as posted.

(*Added by Stats. 1994, c. 920, §2.*)

9207. When petition may be circulated.

The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication or posting, or both, as required by Section 9205, of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.

(*Added by Stats. 1994, c. 920, §2.*)

9208. Securing of signatures and petition filing time.

Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 9204, and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. Petitions and sections thereof shall be filed in the office of the elections official during normal office hours as posted. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

(*Added by Stats. 1994, c. 920, §2.*)

9209. Affidavit attached to petition.

Each section shall have attached thereto the declaration of the person soliciting the signatures. This declaration shall be substantially in the same form as set forth in Section 9022, except that the declaration shall declare that the circulator is a voter or is qualified to register as a voter of the city, and shall state his or her residence address at the time of the execution of the declaration.

(*Amended by Stats. 2001, c. 105, §4.*)

9210. Filing of petition.

The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

When the petition is presented for filing, the elections official shall do all of the following:

(a) Ascertain the number of registered voters of the city last reported by the county elections official to the Secretary of State pursuant to Section 2187 effective at the time the notice specified in Section 9202 was published.

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the elections official determines that the number of signatures, *prima facie*, equals or is in excess of the minimum number of signatures required, he or she shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

(*Added by Stats. 1994, c. 920, §2.*)

9211. Examination of signatures.

After the petition has been filed, as herein provided, the elections official shall examine the petition in the same manner as are county petitions in accordance with Sections 9114 and 9115, except that for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

(*Added by Stats. 1994, c. 920, §2.*)

9212. Report on effect of proposed initiative to legislative body.

(a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning

9212.

DIVISION 9. MEASURES SUBMITTED TO THE VOTERS

9218.

Chapter 3. Municipal Elections

and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

(Amended by Stats. 2000, c. 496, §2.)

9213. Report on municipal initiatives submitted to Secretary of State; time.

On or before April 1 of each odd-numbered year, the elections official of each legislative body shall file a report with the Secretary of State containing the following information:

(a) The number of municipal initiative petitions circulated during the preceding two calendar years which did not qualify for the ballot, and the number of these proposed initiatives for which reports were prepared pursuant to Section 9212.

(b) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

(c) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were not approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

(Added by Stats. 1994, c. 920, §2.)

9214. Petition signatures; adopt ordinance or order special election.

If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is

presented.

(b) Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

(Amended by Stats. 2000, c. 55, §17.)

9215. Petition signatures; ordinance submitted at next regular municipal election.

If the initiative petition is signed by not less than 10 percent of the voters of the city, according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405.

(c) Order a report Pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

(Amended by Stats. 2000, c. 55, §18.)

9216. Mayor may veto.

In cities having a mayor, or like officer, with the veto power, when the passage of an ordinance petitioned for by the voters is vetoed, the failure of the legislative body to pass the ordinance over the veto shall be deemed a refusal of the legislative body to pass the ordinance within the meaning of this article.

(Added by Stats. 1994, c. 920, §2.)

9217. Valid ordinance if majority.

If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the city. The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date. No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.

(Added by Stats. 1994, c. 920, §2.)

9218. More than one ordinance at same election.

Any number of proposed ordinances may be voted upon at the same election, but the same subject matter shall not be voted upon twice within any

9218. DIVISION 9. MEASURES SUBMITTED TO THE VOTERS

Chapter 3. Municipal Elections

12-month period at a special election under the provisions of this article.

(Added by Stats. 1994, c. 920, §2.)

9219. Arguments for and against ordinance.

The persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. Neither argument shall exceed 300 words in length, and both arguments shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____" accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any argument.

9220. Rebuttal arguments.

(a) If the legislative body submits an argument against the ordinance, it shall immediately send copies of the argument to the persons filing the initiative petition. The persons filing the initiative petition may prepare and submit a rebuttal argument not exceeding 250 words. The legislative body may prepare and submit a rebuttal to the argument in favor of the ordinance not exceeding 250 words. The rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

(b) Subdivision (a) shall only apply if, not later than the day on which the legislative body calls an election, the legislative body, by a majority vote, approves its application; in which case, subdivision (a) shall apply at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accord with this subdivision.

(Added by Stats. 1994, c. 920, §2.)

9221. Conflicting ordinances.

If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

(Added by Stats. 1994, c. 920, §2.)

9222. Legislative body may submit proposed ordinance to voters.

The legislative body of the city may submit to the voters, without a petition therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended, or enacted accordingly. A proposition may be submitted, or a special election may be called for the purpose of voting on a proposition, by ordinance or resolution. The elec-

tion shall be held not less than 88 days after the date of the order of election.

(Amended by Stats. 2002, c. 371, §1.)

9223. Copy of ordinance made available to voter.

Whenever any ordinance or measure is required by this article to be submitted to the voters of a city at any election, the elections official of the legislative body shall cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

(Added by Stats. 1994, c. 920, §2.)

9224. Enacting clause of ordinance.

The enacting clause of an ordinance submitted to the voters of a city shall be substantially in the following form:

"The People of the City of _____ do ordain as follows:"

(Added by Stats. 1994, c. 920, §2.)

9226. Scope of article.

This article does not apply to any statewide initiative measure.

(Added by Stats. 1994, c. 920, §2.)

Article 2. Referendum**9235. Date ordinance becomes effective.**

No ordinance shall become effective until 30 days from and after the date of its final passage, except:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An ordinance for the immediate preservation of the public peace, health, or safety that contains a declaration of, and the facts constituting, its urgency and is passed by a four-fifths vote of the city council.
- (c) Ordinances relating to street improvement proceedings.
- (d) Other ordinances governed by particular provisions of state law prescribing the manner of their passage and adoption.

(Added by Stats. 1994, c. 920, §2.)

9236. Time ordinance becomes effective; when ordinance subject to referendum.

(a) Notwithstanding Section 9235, ordinances authorizing the issuance of revenue bonds by a city as part of a joint powers entity pursuant to Section 6547 of the Government Code shall not take effect for 60 days.

(b) When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the city described in subdivision (a) exceeds 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 5 percent of the entire vote cast within the boundaries of the city for all candidates for Governor at the last gubernatorial election. When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the city is less than 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10 percent of the entire vote cast within the boundaries of the city for all candidates for Governor at the last gubernatorial election.

(c) For the purpose of submitting the question to the voters pursuant to subdivision (b), the ballot wording shall approximate the following: "Shall the _____ (city name), as a member of the _____ (joint powers entity name), authorize the issuance of revenue bonds by the joint

1405.**DIVISION 1. ESTABLISHED ELECTION DATES**

districts whose boundaries are coterminous with the boundaries of the county, shall be consolidated with the November general election pursuant to Part 3 (commencing with Section 10400) of Division 10.

(1) The terms of members of the governing board elected pursuant to this section shall begin at noon on the first Monday after the first day in January following the general election and shall end at noon on the first Monday after the first day in January four years thereafter.

(2) The terms of members of the governing board expiring on March 31 of any odd-numbered year next succeeding any general election shall expire at noon on the first Monday after the first day in January following the general election.

(b) When the term of an incumbent expires at midnight on March 31 of an odd-numbered year and no successor has been elected because of the provisions of subdivision (a), the members of the board whose terms have not expired shall appoint a successor to serve until a successor is elected and qualifies pursuant to subdivision (a).

(Added by Stats. 1996, c. 1143, §30.)

1303. Date of general district election.

(a) Unless the principal act of a district provides that an election shall be held on one of the other dates specified in Chapter 1 (commencing with Section 1000) of Division 1, or except as provided in Section 1500, or except as provided in subdivision (b), a general district election to elect members of the governing board shall be held in each special district subject to Division 10 (commencing with Section 1000) on the first Tuesday following the first Monday in November of each odd-numbered year.

(b) Notwithstanding any other provision of law, a governing body of a special district may require, by resolution, that its elections of governing body members be held on the same day as the statewide general election. The resolution shall become operative upon the approval of the board of supervisors pursuant to Section 10404.

(Amended by Stats. 2003, c. 810, §4.)

1304. Date of election.

Unless the principal act of a district provides that an election shall be held on one of the other dates specified in Chapter 1 (commencing with Section 1000) of Division 1, a general district election shall be held in each district on the first Tuesday after the first Monday in November in each odd-numbered year to choose a successor for each elective officer the term of whose office will expire on the following first Friday in December.

(Added by Stats. 1994, c. 920, §2.)

Chapter 5. Special Elections**1400. Date of special elections.**

Each special election shall be held on one of the established election dates set by this division or on the date of any statewide special election except as provided in Section 1003.

(Added by Stats. 1994, c. 920, §2.)

1405. Date of county, municipal, or district initiative election.

(a) Except as provided below, the election for a county, municipal, or district initiative that qualifies pursuant to Section 9116, 9214, or 9310 shall be held not less than 88 nor more than 103 days after the date of the order of election.

(1) When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 within 180 days prior to a regular or special election occurring wholly or partially within the same territory, the election on the initiative measure may be held on the same date as, and be consolidated with, that regular or special election.

(2) When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 during the period between a regularly scheduled statewide direct primary election and a regularly scheduled statewide general election in the same year, the election on the initiative measure may be held on the same date as, and be consolidated with, the statewide general election.

(3) To avoid holding more than one special election within any 180-day period, the date for holding the special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310, may be fixed later than 103 days but at as early a date as practicable after the expiration of 180 days from the last special election.

(4) Not more than one special election for an initiative measure that qualifies pursuant to Section 9116, 9214, or 9310 may be held by a jurisdiction during any period of 180 days.

(b) The election for a county initiative that qualifies pursuant to Section 9118 shall be held at the next statewide election occurring not less than 88 days after the date of the order of election. The election for a municipal or district initiative that qualifies pursuant to Section 9215 or 9311 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election.

(Amended by Stats. 2002, c. 664, §73.)

1410. Date for county or municipal referendum election.

The election for a county or municipal referendum that qualifies pursuant to Section 9144 or 9237 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election or at a special election called for that purpose not less than 88 days after the date of the order of election.

(Added by Stats. 1996, c. 1143, §33.)

1415. Date of city or county charter proposals.

The established mailed ballot election dates are as follows:

(a) The first Tuesday after the first Monday in May of each year.

(b) The first Tuesday after the first Monday in March of each even-numbered year.

(c) The last Tuesday in August of each year.

(Amended by Stats. 2004, c. 817, §7.)

Chapter 6. Mail Ballot Elections**1500. Date of mailed ballot election.**

The established mailed ballot election dates are as follows:

(Added by Stats. 1996, c. 1143, §34.)