

From: Commissioner Jerdonek
Date: June 26, 2023 (updated June 27)

Subject: File No. 230663 to opt out of AB 1416's Ballot Labels for Local Measures

[6/27 Updates: I (1) attached the slides that Director Arntz presented at the June 14 budget hearing, and (2) added an "Other Counties" section at the end.]

The purpose of this memo is to provide, in a convenient form, additional information about AB 1416 (2021-22)¹ "Elections: ballot label" and File No. 230663.²

File No. 230663 contains the Department of Elections' proposed ordinance to opt out of AB 1416 for local measures. The proposed ordinance was introduced on June 1, 2023 and heard before the Board of Supervisors' Budget and Appropriations Committee on June 14, 2023. The agenda item can be watched at the following link between the times 4:09:40 and 4:35:11: https://sanfrancisco.granicus.com/player/clip/43914?view_id=207&redirect=true&h=a8df3ce4ed1951cb00587fefdcc8aba4

The agenda item hearing includes discussion of both the ordinance as well as the Department's overall proposed budget.

For convenience, I attached the proposed ordinance to this memo. The "Findings" section of the proposed ordinance contains the following paragraph:

(f) Given the projected increase in costs of administering elections associated with including a list of supporters and opponents in the ballot statement or question for each local measure, and the minimal added benefit to voters in light of the information the Department of Elections already provides in the voter information pamphlet, San Francisco elects to opt out of the requirements of AB-1416 for local measures, as provided by Section 9170(d) of the legislation.

I also attached the slides from Director Arntz's budget presentation to the Committee, which he provided to me when I asked. The last page (page 11) shows an illustrative side-by-side mock-up / comparison of what the ballot would look like with and without the new ballot labels.

AB 1416 (2021-22)

Regarding AB 1416, San Francisco Assemblymembers Matt Haney and Phil Ting both voted yes on AB 1416, as did State Senator Scott Wiener.

I have also attached pages 6-8 of the 8/26/22 Senate Floor Analyses of AB 1416, which is the most recent legislative analysis of the bill that contains the bill's supporters and opponents.

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1416

² <https://sfgov.legistar.com/LegislationDetail.aspx?ID=6249099&GUID=985F6146-944D-44C5-8ED7-A94556FF0B37>

Pages 6-8 are the pages of the analysis that contain comments on the bill, as well as the lists of supporters and opposition. The first comment starts out—

1) According to the author, in California, voters are responsible for weighing in on statewide policy through ballot measures. In recent elections, ballot measure campaigns have used significant funds to inundate media outlets with advertisements intended to sway, and at times, mislead voters. Although voters can look to the voter information guide to decipher the facts on ballot measures, this document can be long and confusing for voters to navigate.

AB 1416 is a common sense solution that will bring transparency to ballot measure campaigns and provide voters with the critical information they need to cast an informed vote. This bill will require ballot measure labels to include a short list of those who support and oppose each measure, and require that each list be limited to no more than 15 words. Similar to the way in which voters look to party affiliation or occupancy when voting for a candidate, AB 1416 will provide them with clear information right on their ballot.

Thus, the bill analysis acknowledges that the voter information guide already contains the lists of supporters and opponents of state measures, yet the Legislature (including our own local representatives) still thought the bill provided a transparency benefit to the voters that is worth the added cost.

Other Counties

An article in *The Mercury News* from April 19, 2023 (“Contra Costa will not list supporters and opponents on election ballots”)³ reports that the following counties have said they plan to remain opted in:

1. Inyo
2. Los Angeles
3. Orange
4. Santa Clara

while the following eleven counties are opting out:

- | | |
|-----------------|-----------------|
| 1. Butte | 7. Mono |
| 2. Colusa | 8. Napa |
| 3. Contra Costa | 9. Placer |
| 4. Imperial | 10. Plumas |
| 5. Kern | 11. Yuba County |
| 6. Mendocino | |

³ <https://www.mercurynews.com/2023/04/19/contra-costa-will-not-list-supporters-and-opponents-on-election-ballots/>

Attachments

1. Proposed Ordinance for File No. 230663 (4 pages)
2. Pages 6-8 of the 8/26/22 - Senate Floor Analyses (3 pages)
3. Director Arntz's June 14, 2023 Budget Presentation Slides, including ballot mock-ups on page 11 (11 pages)

[Municipal Elections Code - Supporters and Opponents in Ballot Questions for Local Measures]

Ordinance amending the Municipal Elections Code to opt out of state law that would require the names of supporters and opponents of a local ballot measure to be listed in the ballot statement or question for the measure.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font. **Additions to Codes** are in *single-underline italics Times New Roman font*. **Deletions to Codes** are in *strikethrough italics Times New Roman font*. **Board amendment additions** are in double-underlined Arial font. **Board amendment deletions** are in ~~strikethrough Arial font~~. **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings

(a) The Municipal Elections Code requires the City Attorney to prepare a general statement or question to appear on the ballot for each local ballot measure submitted to the voters. Such statements are limited to 30 words, except for unusually complex measures or bond measures, where the general statement or question may be up to 100 words long.

(b) In 2022, the State enacted new requirements for ballot questions for state and local ballot measures. Assembly Bill 1416 (AB-1416) requires the ballot statement or question for both statewide measures and local measures to include a list of supporters and opponents of each measure. The list of supporters and the list opponents may each be up to 125 characters in length. The names of the supporters and opponents must be drawn from the proponents of the measure or from the arguments in favor and against the measure included in the voter information pamphlet. AB-1416 became operative on January 1, 2023.

1 (c) In enacting AB-1416, the Legislature stated that it intended the new requirements
2 to apply to charter cities like San Francisco.

3 (d) With respect to local ballot measures, AB-1416 gives counties the authority to opt
4 out of the new requirements: “a county board of supervisors may elect not to list supporters
5 and opponents for county, city, district and school measures on the county ballot and future
6 county ballots.” Cal. Elections Code Sec. 9170(d).

7 (e) The Director of Elections has determined that including a list of supporters and
8 opponents in the ballot statement or question will significantly increase the length of the ballot
9 and therefore increase the number of ballot cards required for each ballot. Increasing the
10 number of cards will cause the Department of Elections to incur additional expenses for each
11 election due to the material costs of the ballot cards and postage as well as staff time required
12 to process additional cards. The Director of Elections estimates that the cost of complying
13 with AB-1416 for local ballot measures in the 2024 elections will potentially exceed
14 \$1,000,000. The proponents and opponents of each local ballot measure already appear in
15 the voter information pamphlet sent to each voter prior to an election.

16 (f) Given the projected increase in costs of administering elections associated with
17 including a list of supporters and opponents in the ballot statement or question for each local
18 measure, and the minimal added benefit to voters in light of the information the Department of
19 Elections already provides in the voter information pamphlet, San Francisco elects to opt out
20 of the requirements of AB-1416 for local measures, as provided by Section 9170(d) of the
21 legislation.

22
23 Section 2. Article V of the Municipal Elections Code is hereby amended by revising
24 Section 510, to read as follows:
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1 **SEC. 510. CITY ATTORNEY STATEMENT OR QUESTION.**

2 (a) **Format.** Except as provided in Subsection (c) of this Section, the City
3 Attorney shall prepare a general statement of any ballot measure to be submitted to the
4 voters, followed by the words "yes" and "no," so arranged that voters may indicate a choice
5 upon the ballot. The general statement or question shall not exceed 30 words, except where
6 the subject measure is unusually complex, in which case the general statement or question
7 shall not exceed 100 words.

8 (b) **Deadline.** The general question or statement for any measure shall be
9 transmitted to the Director of Elections no fewer than 85 days prior to the election to which it
10 relates, for printing and inclusion in the voter information pamphlet.

11 (c) **Bond Measures.** The City Attorney shall not prepare the general
12 statement of a bond measure where the Board of Supervisors approves a general statement
13 of the measure by ordinance or resolution. The general statement of a bond measure shall not
14 exceed 100 words.

15 (d) *List of Supporters and Opponents of Measure. Notwithstanding Section*
16 *9170(a) of the California Elections Code, and as authorized by Section 9170(d) of the California*
17 *Elections Code, the general statement or question of any ballot measure to be submitted to voters shall*
18 *not list the supporters or the opponents of the measure.*

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7

8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Bradley A. Russi
11 BRADLEY A. RUSSI
12 Deputy City Attorney

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Comments

- 1) According to the author, in California, voters are responsible for weighing in on statewide policy through ballot measures. In recent elections, ballot measure campaigns have used significant funds to inundate media outlets with advertisements intended to sway, and at times, mislead voters. Although voters can look to the voter information guide to decipher the facts on ballot measures, this document can be long and confusing for voters to navigate.

AB 1416 is a common sense solution that will bring transparency to ballot measure campaigns and provide voters with the critical information they need to cast an informed vote. This bill will require ballot measure labels to include a short list of those who support and oppose each measure, and require that each list be limited to no more than 15 words. Similar to the way in which voters look to party affiliation or occupancy when voting for a candidate, AB 1416 will provide them with clear information right on their ballot.

- 2) *Longer Ballots.* Under current law, the ballot label is capped at 75 words. This bill requires the names of persons and organizations supporting and opposing a state ballot measure to be added onto the ballot and could significantly increase the length of the ballot, especially if a county chose to include this information on the ballot for local ballot measures. Additionally, many county elections officials are required to translate ballot materials into multiple languages under state and federal law. To comply with these requirements, some counties include English and other languages on a single ballot, while other counties print separate ballots in languages other than English.
- 3) *Local Ballot Inconsistencies.* The requirements of this bill are only mandated for statewide measures, and may be adopted in some counties but not others. Voters in counties that have the supporters and opponents listed on their ballots may not have supporters and opponents listed in multi-county districts. This may lead to confusion for voters in some counties who will not see the support and opposition listed for all ballots measures on their ballot.
- 4) *Politicizing the Ballot.* Historically, other than the listing of a party preference for specific offices, the ballot has remained largely neutral, in terms of the ballot being politicized. The ballot itself is sometimes considered “sacred.” After all the debate, endorsements, and advertisements, the ballot is where the voter makes the final decision to approve, reject, or skip a ballot measure and that decision is made on one of the most neutral ways possible (i.e. a ballot with

brief information about the measure, an option for “Yes,” and an option for “No”).

- 5) *Potential for Chicanery.* Additionally, even though there are protections for the types of organizations that could be listed, this could be gamed as newly established entities become more established over time. The short-term effects may have long-term ramifications and could actually create more confusion among voters if the names of organizations, or even individuals, are similar.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The SOS indicates that it would incur annual costs of \$25,000 to implement its provisions of the bill, for (1) staff time to review submitted documentation and provide counties with lists of supporters and opponents in short timeframes, and (2) review and recertify on demand systems and inspect and recertify ballot-printing facilities (General Fund).
- By imposing additional duties on county elections officials, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude of the costs is unknown, but likely in the millions of dollars per election.

SUPPORT: (Verified 8/26/22)

California Clean Money Campaign (source)
 American Family Voices
 California Alliance for Retired Americans
 California Church IMPACT
 California Common Cause
 California Democratic Party, various caucus chairs
 California Environmental Voters
 Californians Against Waste
 CALPIRG
 City of Mountain View
 Courage California
 Democratic Party of Contra Costa County
 Democratic Party of the San Fernando Valley

Democrats of Rossmoor
Endangered Habitats League
Green Party of Sacramento County
Indivisible CA StateStrong
League of Women Voters of California
Los Angeles County Democratic Party
MapLight
Money Out People In
Money Out Voters In
Pax World LLC
Progressive Democrats of America, California
Public Citizen, Inc.
Santa Clara County Democratic Party
TakeItBack.org
Voices for Progress
Western Center on Law & Poverty

OPPOSITION: (Verified 8/26/22)

None received

ASSEMBLY FLOOR: 57-19, 1/31/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley, Cooper, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel, Waldron

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