



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Discussion Calendar
February 16, 2010

**Honorable Mayor and
Members of the City Council**

Title: Election Related Ordinance: Ballot Arguments

Location/Council District: Citywide

Recommendation: Adopt an **Ordinance** amending section 1.16.070 of the Sacramento City Code relating to ballot arguments.

Contact: Shirley Concolino, City Clerk, 808-5442, City Clerk's Office
Matthew Ruyak, Supervising Deputy City Attorney, 808-5346, City Attorney's Office

Presenters: Matthew Ruyak

Department: City Clerk's Office / City Attorney's Office

Division: N/A

Organization No: 04001021

Description/Analysis

Issue: Amendment of the City Code to provide for greater inclusion of all interested parties in the preparation of ballot arguments.

Policy Considerations: City Charter Section 150 provides the City Council with the authority to adopt an election code ordinance. The City's election code is contained in Sacramento City Code Chapter 1.16. An amendment to the City Code about who may prepare ballot arguments will allow for greater inclusion of participants.

This item is an ordinance that has relevance to the ballot arguments associated with the June 8, 2010, election.

Environmental Considerations: None

Commission/Committee Action: None.

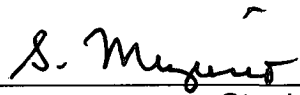
Rationale for Recommendation: Currently, California Elections Code section 9282 restricts those preparing ballot arguments for an initiative measure to the persons filing the initiative petition (argument in favor) and the legislative body (argument against). For measures placed on the ballot by the legislative body, the Elections Code provides for preparation of ballot arguments by the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations.

This amendment will provide a greater level of participation in who may file a written ballot argument.

As this is the first initiative petition to be placed on the ballot in many years, the relevant changes to the Elections Code were only recently discovered.

Financial Considerations: Not applicable.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: 
Stephanie Mizuno,
Assistant City Clerk


Matthew Ruyak,
Supervising Deputy City Attorney

Recommendation Approved:


Shirley Condolino
City Clerk

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ATTACHMENT 1**Background:**

The City has an elections code adopted pursuant to the Sacramento City Charter. Part of the City's election code, City Code section 1.16.070, describes portions of the ballot argument procedure. But it is not comprehensive; rather, the City incorporates by reference those provisions of the California Elections Code not in conflict with the City's Charter or elections code. The California Elections Code provision covering written arguments for or against ballot measures (Section 9282), has been amended since the last time an initiative measure was placed before Sacramento voters.

Currently, California Elections Code section 9282 restricts those preparing ballot arguments for an initiative measure to the persons filing the initiative petition (argument in favor) and the legislative body (argument against). For measures placed on the ballot by the legislative body, the Elections Code provides for preparation of ballot arguments by the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. This amendment will provide a greater level of participation in who may prepare (or author) a ballot argument than is provided in Elections Code.

The proposed changes to Section 1.16.070 are described below:

In new subsection A, the reference to Elections Code section 9283 has been changed to Section 9287; the reference to Section 9283 was erroneous, and Section 9287 is the provision describing the city clerk's mandated selection preferences and priorities. Additionally, the time for filing rebuttals has been changed from seven (7) days to ten (10) days. The new ten (10) day period parallels the time period in California Elections Code section 9285, subd. (a).

New subsections B and C are added to address argument submittal for two types of ballot measures: (1) initiatives; and (2) City Council measures. The City Code currently does not distinguish between the two. Prior to 2007, the California Elections Code likewise did not distinguish between these two types of measures; instead, it described who may file a written argument as to "any city measure." And under that previous version, the "legislative body, or any member or members of the legislative body authorized by that body," could file a written argument. (See Stats. 1994, ch. 920 (S.B. 1547), § 2.)

However, effective 2007, Elections Code section 9282 provides, in pertinent part:

(a) For measures placed on the ballot by petition, 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.

(b) For measures placed on the ballot by the legislative body, the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure.

Thus, Section 9282, when read in conjunction with the argument selection priorities set forth in Elections Code section 9287, now gives the initiative proponent priority for the argument in favor of the measure. That seems logical and appropriate. However, Section 9282 now effectively (if inadvertently) limits the universe of authors for or against an initiative measure. That is, if the proponent does not file a written argument for the measure (however unlikely), Section 9282 does not allow for other voters or associations of citizens to file a written argument in support. The proposed new subsection B of City Code section 1.16.070 will allow a greater number of persons to submit a written argument in support. Likewise, it allows for a greater number of persons, including council member(s) authorized by City Council, to file a written argument against the measure.

New subsection C is added as necessary to distinguish Council measures from initiative measures. This new subsection offers the broadest range of potential argument authors, for or against the measure.

New subsection D is added to make clear that other provisions within Elections Code section 9282 (e.g., arguments are limited to 300 words), still apply to city measures.

Finally, note that although Section 1.16.070 would be amended to provide a greater opportunity for potential argument authors, it would not change the selection of the argument to be included with the sample ballot. For reference, Elections Code section 9287 sets the following priority for the city clerk's selection of ballot arguments (if more than one argument is submitted):

- (a) The legislative body, or member or members of the legislative body authorized by that body;
- (b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure;
- (c) Bona fide associations of citizens;
- (d) Individual voters who are eligible to vote on the measure.

ATTACHMENT 2

ORDINANCE NO.

Adopted by the Sacramento City Council

**AN ORDINANCE AMENDING SECTION 1.16.070 OF THE
SACRAMENTO CITY CODE
RELATING TO BALLOT ARGUMENTS, TO TAKE
EFFECT IMMEDIATELY UPON ADOPTION**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 1.16.070 of the Sacramento City Code is amended to read as follows:

1.16.070 Ballot arguments.

A. When the city clerk has selected the arguments for and against a measure appearing on the ballot at a municipal election pursuant to Elections Code Section ~~92839287~~, the clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the arguments against to the authors of the argument in favor. The authors may prepare and submit rebuttal argument not exceeding two hundred fifty (250) words. The rebuttal arguments must be filed with the city clerk not more than ~~seven~~ ten days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut. Notwithstanding the provisions of California Elections Code Section 9295 to the contrary, the city clerk shall make available for public examination in the clerk's office all arguments filed pursuant to this section not less than ten (10) days before arguments are submitted for printing. For arguments, the period during which any person named in Section 9295 may seek a writ of mandate or an injunction pursuant to Section 9295 shall be during the ten (10) day examination period provided for herein.

B. For initiative measures placed on the ballot, the persons filing the initiative petition, along with any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument in favor of the measure, and the city council, or any council member(s) authorized by the city council, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may submit an argument against the measure.

C. For city council measures placed on the ballot, the city council, or any council

member(s) authorized by the city council, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against the measure.

D. Except as provided otherwise in this section, the procedures set forth in Elections Code section 9282, as amended, shall apply.

SECTION 2.

This ordinance relates to elections, and is to take effective immediately upon adoption by the City Council pursuant to Sacramento City Charter section 32(g)(1).

ATTACHMENT 3

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B. For initiative measures placed on the ballot, the persons filing the initiative petition, along with any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument in favor of the measure, and the city council, or any council member(s) authorized by the city council, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may submit an argument against the measure.

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