

HOW TO DO A COUNTY INITIATIVE

A Guide to Placing a County Initiative on the Ballot



Prepared by the Kern County Elections Office

This guide was developed in an effort to provide answers to questions frequently asked the Kern County Elections Office regarding how to start and circulate a county initiative petition. It is for general information only and does not have the force and effect of law, regulation or rule. In case of conflict, the law, regulation or rule will apply. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties. It is recommended that you contact private legal counsel to advise you of the legal requirements of the county initiative process. The Kern County Elections Office cannot give legal advice or interpretations of law.

The following is intended as only an introduction to the initiative process and it is not intended for use in lieu of legal counsel.

All references are to the California Elections Code unless otherwise noted.

For information on city initiatives, please contact your City Clerk.

February 2018

This Document is subject to change without notice.

CONTACT INFORMATION

KERN COUNTY ELECTIONS OFFICE

1115 Truxtun Avenue, 1st Floor,
Bakersfield, CA 93301

General Information	661-868-3590 or 1-800-452-8683
Assistant Registrar of Voters	Karen Rhea
Chief Deputy Registrar of Voters	Abbe Shugart
Vote by Mail Supervisor	Renea Westfall
Election Data for Sale Voter Registration	Sarah Webb Sophia Sanchez
Campaign Reporting/NetFile	Nyoka Reed Sergio Figueroa Julie Chaides
Vote by Mail Information	Marcie Welch Vilma Rosales
Fax – General	661-868-3768
Fax – Candidate Filing	661-868-3727
Fax – Vote by Mail	661-868-3723
Website	www.kernvote.com

ORDER OF EVENTS

Once the Notice of Intention is filed, the Elections Office staff will assist in developing a calendar specific to your initiative. State statute mandates some deadlines; others are suggested time frames in order to provide the maximum amount of time to circulate petitions.

Elections Office receives Notice of Intent (includes printed name/s, signatures, and business or residence address of proponent/s, written text of the initiative and a request that a ballot title and summary be prepared) and a check for \$ 200.00 made payable to the Kern County Elections Office. (§9103, 9104)

Elections Office delivers Notice of Intent to County Counsel. (§9105a)

Within 15 days, County Counsel delivers Title and Summary to Elections Office who then delivers a copy of the Title and Summary to Proponents (§9105a)

Proponents shall, prior to circulation of the petition, publish the Notice of Intent with Title and Summary and file proof of publication with the clerk. (§9105b)

Proponents submit petition with signatures within 180 days after proponents receive Title and Summary from Elections Office or after termination of any action for a writ of mandate pursuant to §9106 and, if applicable, after receipt of an amended title or summary or both, which occurs later. (§9110)

Elections Office has 30 working days (Saturdays, Sundays & holidays excluded) to certify results to Board of Supervisors. (§9114, 9115)

Elections Office submits to the Board of Supervisors an item for the Board agenda.

Board of Supervisors have three options to exercise at its meeting where the Elections Office presents its findings that an initiative petition is sufficient.

- 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 Section 1405.
- c) Order a report pursuant to Section 9111 at the regular meeting at which the certification of the petition is presented. When the report

is presented to the board of supervisor, the board shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

- E-88 Last day Board can consolidate a measure with a regular election.
Last day County Auditor to prepare Fiscal Impact Statement. (9160)
- E-83 Letters will be assigned to measures by the Kern County Elections office.
(§10403)
- E-78 Last day to file arguments. (9163)
Last day County Counsel to prepare an Impartial Analysis. (9160)
- E-71 Last day to file rebuttal arguments. (9167)
- E-40 to Mailing of sample ballots. (§13303, 13304)
E-21
- E-15 Last day to register to vote at the polls.
- E-7 Last day to request a Vote by Mail Ballot. (§3001)
- E-0 Election Day.

These dates are approximate. Actual dates will depend on the timing of the proponents completing filings and publication, completion of the Title and Summary prepared by the County Counsel, and the number of days proponents take to circulate the petition.

NOTICE OF INTENTION

Any proposed ordinance may be submitted to the Board of Supervisors by the filing of an initiative petition. Each petition section shall comply with the requirements of the California Elections Code and shall contain a full and correct copy of the 'Notice of Intention' and accompanying statement including the full text of the proposed ordinance. (9101)

The enacting clause of an ordinance submitted to the voters shall be substantially in the following form: **The people of the County of Kern ordain as follows:** _____ . (9124)

Before circulating any initiative petition, the proponents shall file with the Kern County Elections Office, a '**Notice of Intention**'. The notice shall include the names and business, or residence addresses of at **least one but not more than five proponents** of the petition and shall be accompanied by the written text of the initiative, and a request that a ballot title and summary be prepared. (9103a)

The 'Notice' may also include a printed statement not exceeding 500 words stating the reasons for the proposed petition. (9104)

Proponents must pay a fee not to exceed \$ 200.00 to be refunded if, within one year of the date of filing the Notice of Intention, the clerk certifies the sufficiency of the petition. (9103)

The 'Notice' shall be in substantially the following form: (9104)

'Notice of Intention' to Circulate an Initiative Petition:

'Notice' is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of Kern for the purpose of _____ .

A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(Here set forth a statement of the reasons for the proposed petition in not more than 500 words)

(This statement is optional)

Along with the 'Notice of Intention' the proponents shall also file a copy of the **text of the proposed measure**, and a request for a ballot title and summary. This request shall be accompanied by the names and addresses of the proponents. (9105)

BALLOT TITLE AND SUMMARY

County Counsel shall within **15 days** after the proposed measure is filed, prepare a ballot title and summary for the proposed measure not exceeding 500 words. (9105a)

The Kern County Elections Office shall furnish a copy of the ballot title and summary to the proponents. (9105b)

Each section of the petition shall bear a copy of the Notice of Intent. (9108)

The ballot title and summary shall appear 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 and summary shall be clearly separated from the text of the measure. (9105c)

The heading of the proposed measure shall be in substantially the following form. (9105c)

Initiative Measure to be Submitted Directly to the Voters

County Counsel has prepared the following title and summary of the chief purposes and points of the proposed measure:

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

APPEAL

The proponents may seek a writ of mandate requiring the ballot title or summary prepared by County Counsel to be amended. 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 Elections Code 9105. (9106)

PUBLICATION & PROOF OF PUBLICATION

The proponents shall, **prior** to the circulation of the petition publish the 'Notice of Intention' and the 'Ballot Title and Summary' of the proposed measure in a newspaper of general circulation in Kern County and shall **file** a 'Proof of Publication' with the Kern County Elections Office. (9105b)

PETITION FORMAT

The petition section shall be designed so that each signer shall personally affix his or

her: (9020)

- a) Signature.
- b) Printed name.
- c) Residence address, giving street and number or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.
- d) Name of incorporated city or unincorporated community.

The part of the petition for the voters' signatures shall be in substantially the following form: (100)

		Official Use only	
1	Print Name	Residence Address Only	
	Signature	City	Zip
2	Print Name	Residence Address Only	
	Signature	City	Zip

The following language shall be printed in 12-point type, prior to that portion of the petition for voters' signatures, printed names, and residence addresses: (101)

**NOTICE TO THE PUBLIC
THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE
GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.**

Each section of the petition shall have attached a declaration signed by the circulator of the petition setting forth the following: (104, 9109)

- a) The printed name of the circulator.
- b) The residence address of the circulator, giving street and number, or if no street and number exists, adequate designation of residence so that the location may be readily ascertained.
- c) The dates between which all the signatures to the petition were obtained.
- d) That the circulator circulated that section and witnessed the appended signatures being written.
- e) That according to the best information and belief of the circulator, each

signature is the genuine signature of the person whose name it purports to be.

- f) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, and last name. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

CIRCULATION OF PETITIONS

The proponents may commence to circulate the petition among the registered voters of Kern County **after the publication** of the 'Title and Summary' that was prepared

by County Counsel. Each section of the petition shall bear a copy of the 'Notice of Intention' and the 'Title and Summary' prepared by County Counsel. (9108)

Circulators must 18 years of age or older. (102)

Only a person who is a qualified registered voter of Kern County at the time of signing the petition is entitled to sign it. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures. (9020)

Elections Code 9111

(a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9118, the board of supervisors may refer the proposed initiative measure to a county 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 county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county 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 county 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 board of supervisors request to be in the report.

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

TIME LIMIT FOR SECURING SIGNATURES

Signatures shall be secured, and the petition shall be presented to the Kern County Elections Office for filing 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 9106 and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. (9110)

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 court order. (9113)

Petitions Not Public Record: Gov. Code 6253.5

Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons

who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

SIGNATURE REQUIREMENT (9118)

TOTAL of all votes cast for Governor in Kern County at the General Election 11/4/2014: **132,686**

10% of votes cast 13,269

If the petition is signed by not less in number than 10% of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, the board of supervisor 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 Section 1405.
- c) Order a report pursuant to Section 9111 at the regular meeting at which the certification of the petition is presented. When the report is presented to the board of supervisor, the board shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

Elections Code 1405.

(a) Except as provided in subdivision (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 9310 shall be held at the jurisdiction's next regular election occurring not less than 88 days after the date of the order of election.

(b) The governing body of a county, city, or district may call a special election for the purpose of submitting an initiative measure to the voters before the date on which the

initiative measure would appear on the ballot pursuant to subdivision (a). If the governing body calls a special election pursuant to this subdivision, the election shall be held not less than 88 days nor more than 103 days after the order of the election.

VERIFICATION OF SIGNATURES

The Kern County Elections Office has 30 working days from the date of filing of the petition to examine the petition and ascertain whether or not the petition is signed by the requisite number of voters. (9114, 9115)

Any voter who has signed the petition shall have their signature withdrawn if they file a written request with the Kern County Elections Office prior to the day the petition is filed. (103)

Petition Retention:

Elections officials required by law to receive or file in their offices any initiative or referendum petition shall preserve the petition until eight months after the certification of the results of the election for which the petition qualified or, if the measure, for any reason, is not submitted to the voters, eight months after the final examination of the petition by the elections official.

Thereafter, the petition shall be destroyed as soon as practicable unless the petition must be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the petition's qualification or disqualification for placement on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code). §17200

ARGUMENTS

Written arguments not exceeding 300 words may be filed for or against any county measure. (9163)

A ballot argument will not be accepted unless it is accompanied by the name or names of the person or persons submitting it, or, if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. (9164)

No more than five signatures shall appear with any argument submitted for filing. If any argument is signed by more than five persons, the signatures of the first five will be printed. (9164)

All arguments shall be accompanied by the "Statement That Argument is True and Correct" to be signed by each proponent. The form can be obtained at the Elections Office. (9600)

Any ballot arguments may be withdrawn at any time prior to and including the final date fixed for filing arguments. (9601)

ENACTMENT OF ORDINANCE

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 County. The ordinance shall be considered as adopted upon the date the vote is declared by the Board of Supervisors, and shall go into effect 10 days after that date. (9122)

POLITICAL REFORM ACT

Proponents of initiatives may have disclosure requirements under the Political

Reform Act, Government Code Sections 81000 et seq.

Questions should be directed to the Kern County Elections Office or the Fair Political Practices Commission, 428 `J' Street, Suite 800, Sacramento, CA 95814, (916) 322-5662.

MASS MAILINGS – REQUIREMENTS

Due to the complexity and many code requirements of Mass Mailings, we are advising you to read the following Government Code Sections:

82025, 84305, 84310, 84501, 84502, 84503, 84504, 84505, 84506.5, 84509, 84510, 84511, 85704, 84504.1, 84504.2, 84504.3, 84504.4 and 84504.5.

Please note that many of the above sections were added/changed due to Assembly Bill No. 249 and will go into effect on January 1, 2018. Therefore, it is advisable that you review this bill AB 249 and Senate Bill No. 226 and other legal requirements to ensure mailings are in compliance.

Website for bill information: <http://leginfo.legislature.ca.gov/faces/home.xhtml>

For questions regarding compliance contact:

FAIR POLITICAL PRACTICES COMMISSION (FPPC)	
Technical Assistance (Hours: 9:00 a.m. to 11:30 a.m. and from 1:30 p.m. to 4:00 p.m.)	1-866-ASK-FPPC or 1-916-322-5660
Fax	1-916-322-0886
Enforcement Complaints	1-866-275-3772 (press 1)
Website	www.fppc.ca.gov
Political Advertising Disclaimers	http://www.fppc.ca.gov/learn.html (under Learn - select Campaign Rules)

Every person who violates the provisions of Section 84305 of the Government Code relating to mass mailing is subject to the penal provisions set forth in Chapter 11 (commencing with Section 91000) of Title 9 of the Government Code. (§18303, EC)

