



California Fair Political Practices Commission

July 3, 1990

Anthony L. Miller, Chief Deputy
Office of Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-90-395

Dear Mr. Anthony:

This is in response to your letter requesting advice on behalf of the Secretary of State regarding the ballot pamphlet provisions of the Political Reform Act (the "Act").¹

QUESTION

Does Government Code Section 88002(c) require the printing of the text of proposed ballot measures on the second page of the California Ballot Pamphlet when arguments for and against the state measure are submitted, or could the Secretary of State administratively consolidate the printing of the complete text of proposed measures in the back of the California Ballot Pamphlet?

CONCLUSIONS

1. Government Code Section 88002 establishes as to each state measure the format for printing the text of a proposed measure in the state ballot pamphlet. Government Code Section 88002 is unambiguous as to the order set forth for printing the information required to be printed. Thus, the Secretary of State may not administratively change the order of text of a proposed state measure.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2. The Commission has no authority to determine whether the Secretary of State has independent authority under the Elections Code to determine whether she may administratively change the order of the text of a proposed state measure. However, such an interpretation would directly conflict with the Commission's interpretation of Government Code Section 88002.

FACTS

The Secretary of State is sponsoring an urgency measure, AB 4109, authored by Assemblyman Chacon, which would move the printing of the entire text of proposed state ballot measures to the back of the California Ballot Pamphlet rather than beginning the printing on the second page when arguments for and against the measure have been submitted as provided for by Government Code Section 88002(c). In your letter, you have asked whether the Secretary of State is bound by the rigid format set forth in Government Code Section 88002, or whether she can administratively consolidate the printing of the complete text of proposed measures in the back of the ballot pamphlet.

ANALYSIS

Government Code Section 88000 requires the Secretary of State to prepare the state ballot pamphlet. Sections 88001 and 88002 specify the contents and format of the state ballot pamphlet. Section 88002 specifically sets forth the order for printing the text of a state measure when arguments for and against the measure have been submitted and when no arguments against the measure have been submitted. Elections Code 3571 contains similar provisions.

Sections 88002(c) and (d) provide:

(c) If arguments for and against the measure have been submitted then the text of the measure shall appear on the right page facing the analysis. If the text does not fit on the page, it shall be continued in the back of the pamphlet. Arguments for and against the measure shall be placed on the next left and right pages respectively. The rebuttals shall be placed immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis. The text of the measure shall be printed in the back of the pamphlet.

(Sections 88002(c) and (d).)

Section 88002 requires you to print the text of the state ballot measures in the order set forth. We sympathize with your concerns with legislative deadlines which may prevent you from moving a legislative proposal which would amend Section 88002 and Election Code Section 3571 this legislative session. However, the statutes concerning the order of the text of the state ballot pamphlet are unambiguous and thus do not permit an alternative administrative interpretation.

Section 83111 provides that the Commission has primary responsibility for the impartial, effective administration and implementation of the Political Reform Act. Thus, the Commission cannot comment on the Secretary of State's interpretation of the Elections Code provision relating to the format of the state measures. However, an interpretation of the Elections Code which results in an administrative interpretation of Section 88002 by the Secretary of State would directly conflict with the Commission's interpretative authority over the Act.

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin

BY:



Luisa Menchaca
Counsel, Legal Division

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