



April 13, 2023

The Honorable Isaac Bryan
 California State Assembly
 1021 O Street, Suite 5630
 Sacramento, CA 95814

**SUBJECT: AB 421 (BRYAN) ELECTIONS: INITIATIVES
 OPPOSE – AS AMENDED APRIL 12, 2023
 SCHEDULED FOR HEARING – APRIL 19, 2023**

Dear Assemblymember Bryan:

The California Chamber of Commerce and the undersigned write to respectfully, but in the strongest possible terms, **OPPOSE AB 421 (Bryan)**, which would lead to the most dramatic upheaval of the state's direct democracy system since its creation more than 100 years ago. The changes proposed in this bill

would dismantle the state's referendum process and take away the ability of Californians to vote on and have oversight of the actions taken by their legislators.

The California referendum process is an important tool that allows people who are the subject of legislative action to hold the Legislature accountable when they act against the will of the people. Eliminating Californians' ability to express their position on major state policies strips the voters of one of their fundamental rights and what has long been a hallmark of what makes our state so unique.

The referendum is part of the holy troika of California direct democracy, along with the initiative and the recall. However, compared with the initiative power, it is lightly used. This is as Gov. Hiram Johnson and the Progressive framers intended.

According to the Secretary of State, in the last 100 years, there have only been 33 state referenda that have qualified and gone before the voters. That is less than .001% of the tens of thousands of pieces of legislation that have been enacted. Despite suggestions otherwise, there is no evidence that the referenda process is controlled or manipulated by any interest. In fact, in the last 70 years of the 17 referenda that have qualified, 10 of them have had to do with redistricting or Indian Gaming Compacts.

10% Volunteer Threshold Will Ensure That Only Wealthiest Interests Can Participate in the Electoral Process

AB 421 would constrain the public's role in the ballot process. By requiring at least 10% of signature collection to be done by volunteers, **AB 421** would make it prohibitively expensive and thus next to impossible to qualify a referendum or certain initiatives except by the wealthiest of special interests.

Similar – if not the exact same – proposals have been vetoed five different times by the last three governors in 2006, 2009, 2011, 2018 and 2019. When Governor Newsom vetoed this proposal in 2019, he said:

“While I appreciate the intent of this legislation to incentivize grassroots support for the initiative process, I believe this measure could make the qualification of many initiatives cost-prohibitive, thereby having the opposite effect. I am a strong supporter of California's system of direct democracy and am reluctant to sign any bill that erects barriers to citizen participation in the electoral process.”

In vetoing a similar proposal in 2018, Governor Brown said:

“Per-signature payment is often the most cost-effective method for collecting the hundreds of thousands of signatures needed to qualify a ballot measure. Eliminating this option will drive up the cost of circulating ballot measures, thereby further favoring the wealthiest interests.

This is a dramatic change to a long-established democratic process in California”

As was noted in the committee analysis for a previous version of this bill, the current case law on this topic is murky at best, with a number of courts striking down similar laws on First Amendment grounds.

Changing the referenda process that has been in place for over 100 years will create more confusion to the public and voters, not eliminate confusion. Qualifying a referendum for the ballot is already a time sensitive and costly endeavor.

Changing the Vote Question is a Solution in Search of a Problem

Currently, a referendum that qualifies for the ballot asks voters to step in the shoes of the Legislature to consider the proposed statute. As such, voters vote for (“yes” on) the measure to approve the proposal, and against (“no”) to reject it. **AB 421** makes a major change in the role of the voters. Instead of “standing in the shoes” of the Legislature, they would be asked instead to second-guess the Legislature (“Keep the law” v. “Overturn the law”), which is a very different question. **AB 421** makes the vote about the Legislature's action, not about the proposed statute itself. This is a profound difference from the historic intent and

function of the referendum. Any such change, which we believe would be ill-advised, could likely only be made with a constitutional amendment.

In any case, there is no evidence that the long-standing approach has confused voters. Of the 33 referenda that qualified for the ballot over the last 100 years, 16 referended statutes (48%) were approved by the voters and 17 referended statutes (52%) were rejected by the voters. There is 100 years of evidence that Californians clearly understand how the referendum process works.

Creates Shorter Time Frame to Collect Signatures for Some Types of Initiatives with No Rationale

The proposal seeks to limit the amount of time that the proponents of some types of initiatives have to gather signatures to 90 days, while other types of initiatives would remain at 180 days from when they file their intended paperwork with the Secretary of State. There is no substantive reason to distinguish between different subjects of initiatives.

It's imperative to consider the unintended consequences of this change. Two initiatives that passed in the last 10 years would have been subject to this much shorter time frame and might not have qualified for the ballot if this arbitrary schedule was in place – Proposition 39 in 2012 and Proposition 24 in 2020.

Sets Up Arbitrary Bureaucratic Deadlines for Updating Paperwork That Will Make It Impossible to Qualify a Referendum or Certain Initiatives

Under the proposal, the petitions that are used to collect signatures for referenda or certain initiatives would have to follow a strict template – stricter than for initiatives under the current law. The new formatting requirements will likely limit the number of signatures to one per petition “section,” significantly increasing printing costs. In addition to signing their names and addresses to the petition, voters would have to initial and date that they reviewed the current top funders for the referendum effort. Signatures of voters who don't complete every field on the petition would be invalidated. Referendum campaigns would also have to update petitions to reflect any changes to their top funders within 5 days. Signatures on out-of-date petition sheets would be invalidated. Old petitions would have to be discarded, and new ones printed – wasting paper, which has been in short supply over the last couple of years. Petition printing alone typically costs a statewide campaign hundreds of thousands of dollars. There is no practical way to constantly update the petitions as campaign contributions often take place on a daily basis, thus changing who the top funders would be. It typically takes several days for newly-printed petitions to get into the hands of circulators. This will make it impossible to gather the requisite number of signatures in the now shortened time frame of 90 days.

A powerful special interest recently described the importance of California's direct democracy in the following way: “When elected officials don't take action on the issues that matter to us, ballot initiatives are a great way for the people to make change. We believe in the power of initiatives to hold powerful interests accountable.” These are the words of SEIU-UHW on their website under the headline “Ballot Initiatives: They Work”. On this, we are in agreement.

By making it harder to qualify referenda and certain initiatives, this proposal is denying Californians the right to address grievances with their government. Californians cherish direct democracy and this would eliminate that opportunity.

For these reasons, we must **OPPOSE AB 421 (Bryan)**.

Sincerely,



Benjamin Golombek
Executive Vice President and Chief of Staff for Policy
California Chamber of Commerce

Agricultural Council of California
Auto Care Association
California Building Industry Association (CBIA)
California Business Properties Association (CBPA)
California Business Roundtable
California Chamber of Commerce
California Hotel & Lodging Association (CHLA)
California Life Sciences
California Manufactures and Technology Association (CMTA)
California Metals Coalition
California Restaurant Association
California Retailers Association
CAWA – Representing the Automotive Parts Industry
Chino Valley Chamber of Commerce
Citrus Heights Chamber of Commerce
Coalition of California Chambers – Orange County
Dana Point Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Family Business Association of California
Folsom Chamber of Commerce
Fontana Chamber of Commerce
Fresno Chamber of Commerce
Greater Coachella Valley Chamber
Greater Escondido Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Irvine Chamber of Commerce
Industrial Environmental Association (IEA)
International Franchise Association
La Cañada Flintridge Chamber of Commerce
Laguna Niguel Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Lincoln Area Chamber of Commerce
Murrieta/Wildomar Chamber of Commerce
Orange County Business Council
Palos Verdes Peninsula Chamber of Commerce
Plastics Industry Association
Rancho Cordova Area Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Jose Chamber of Commerce
San Juan Capistrano Chamber of Commerce
San Marcos Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Shingle Springs/Cameron Park Chamber of Commerce
Vacaville Chamber of Commerce
Western Electrical Contractors Association (WECA)
Western Growers Association (WGA)
Yuba Sutter Chamber of Commerce

cc: Legislative Affairs, Office of the Governor

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