

# How do I Qualify a County Initiative

## A Guide to Placing a County Initiative on the Ballot

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This guide was developed in an effort to provide answers to questions frequently asked the Nevada County Elections Department concerning county initiatives. 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. For information on city initiatives, please contact your City Clerk.

### **I. Proponents must:**

A. File with the Elections Department of the County Clerk's office:

1. A notice of intention which must include:

(a) The printed names, signatures, and business or residence addresses of 1-5 proponents. (EC 9103a, 9104)

(b) The written text of the initiative. (EC 9103a)

(c) A request that a ballot [initiative] title and summary be prepared. (EC 9103a)

2. The notice of intention may include:

(a) A printed statement of up to 500 words stating the reasons for the proposed petition. (EC 9104)

*Note: For sample language of the notice of intention, see Elections Code Sec. 9104.*

B. At the same time, pay a \$200 fee which will be refunded if the measure qualifies for the ballot. (EC 9103b)

### **II. County Clerk must:**

A. The County Clerk shall immediately transmit a copy of the proposed measure to the County Counsel who has 15 days to provide to the County Clerk a ballot [initiative] title and summary of no more than 500 words which gives a true and impartial statement of the purpose of the measure. (EC 9105a)

B. The County Clerk shall furnish a copy of the ballot [initiative] title and summary to the proponents. (EC 9105b)

### **III. Proponents must:**

A. Before circulating the petition, the proponents must publish the notice of intention and the ballot [initiative] title and summary in a newspaper of general circulation. (EC 9105b)

B. Before circulating the petition, file proof of publication with the County Clerk. (EC 9105b)

C. The petition must contain the following:

1. The ballot [initiative] title and summary must appear on each section of the petition above the text of the measure in no less than 12-point type. (See Elections Code Sec. 9105 for details.)

2. The notice of intention and title and summary must appear on each section/page (EC 9108).

3. County Counsel's title and summary must appear across the top of each page whereon signatures are to appear. (EC 9105 last paragraph)

4. Prior to the portion of the petition containing voters' signatures, printed names, and residence addresses, in no less than 12-point type, there shall appear the following language:

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

- D. Each petition section must have an affidavit of the circulator of that section. (EC 9109) (See EC 104 for the format of the affidavit.)
- E. The petition must be submitted to the County Clerk within 180 days from receipt of the title and summary from the County Clerk. (EC 9110)
- F. All petition sections must be submitted at one time by the proponents or any person authorized in writing by the proponents. (EC 9113)
- G. In order to qualify for the next statewide election, submit valid signatures based upon 10% of the entire vote cast in the county for all candidates for Governor at the most recent November Gubernatorial election. (EC 9118)  
*Recommendation: Include sufficient signatures to allow for invalid signatures.*
- H. In order to conduct a special election (initiative petition must contain special election request) or prompt the Board of Supervisors to pass the ordinance without alternation, submit valid signatures based on 20% of the entire vote cast in the county for all candidates for Governor at the most recent November Gubernatorial election. (EC9116)  
*Recommendation: Include sufficient signatures to allow for invalid signatures.*

#### **IV. County Clerk must:**

- A. At the time of filing, determine the total number of signatures on the face of the petition sections. If he or she determines that the number of signatures, prima facie, equals or is in excess of the minimum number required, the Elections Department shall examine the petition as described below. If it is less, no further action shall be taken. (EC 9113, second paragraph).
- B. Within 30 days of filing of the petition determine if sufficient valid signatures have been submitted by (1) a complete signature check or (2) a random sample of 500. (EC 9115)
  1. If the random sample shows that the number of valid signatures is between 95% and 110% of the number needed to qualify the petition for the ballot, every signature shall be examined. (EC 9115b)
  2. If the random sample shows less than 95%, no further action shall be taken. (EC 9115e)
- C. If the County Clerk determines that there are sufficient signatures, he or she must certify the results to the Board of Supervisors at the next regular meeting of the Board.

(EC 9114)

D. The Board may adopt the proposed ordinance without alteration either at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented OR the Board may call an election to submit the proposed ordinance to the voters of the County (if 10% threshold met, election to be held with next statewide election; if 20% threshold met, special election to be called not less than 88 but not more than 103 days) OR the Board may order a report, to be presented to the Board within 30 days, describing the effects of the proposed ordinance pursuant to EC 9111, and the Board must either adopt the ordinance or order an election within 10 days thereafter. (EC 9116 & 9118)

E. If a majority of voters vote in favor of a proposed ordinance, the ordinance shall be considered adopted upon the date Board approves the certification of the election as submitted by the County Clerk, and the ordinance shall go into effect 10 days thereafter. (EC 9122)

F. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control. (EC 9123)

**Petitions Are Not Public Record:**

Pursuant to Government Code 6253.5, petitions 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 therefore.

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.