



Agenda Date: 9/6/2005
Agenda Placement: 9A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Silva Darbinian for Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Brandi Periera, PARALEGAL , 251-1090
SUBJECT: Accept the Report Prepared Pursuant to Elections Code Section 9111 Relating to the "Fair Payment For Public Benefit Act" Initiative and Adopt the Initiative or Order an Election

RECOMMENDATION

County Counsel requests the Board accept the report prepared pursuant to Elections Code Section 9111 relating to the "Fair Payment for Public Benefit Act" initiative and instruct staff to either:

1. Prepare an ordinance that will enable the Board to adopt the "Fair Payment for Public Benefit Act" initiative without alteration on September 13, 2005; or
2. Prepare a resolution for adoption by the Board not less than 88 days prior to June 6, 2006 ordering that an election be held for the purpose of enabling the voters to approve or reject the "Fair Payment for Public Benefit Act" initiative on June 6, 2006.

EXECUTIVE SUMMARY

Section 9111 of the California Elections Code provides that following certification of the sufficiency of a county initiative petition, and before taking action to either (1) adopt the initiative without alteration or (2) submit the initiative to the voters for approval or rejection, the Board of Supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the matters identified in Section 9111. The report must be completed and presented to the Board of Supervisors no later than 30 days after the county elections official has certified to the Board of Supervisors that the initiative petition has been found sufficient.

The initiative was certified as sufficient by the Napa County Registrar of Voters on August 9, 2005 and on that same date the Board of Supervisors ordered the preparation of a report pursuant to Section 9111 of the Elections Code. The last day to present the report to the Board of Supervisors therefore is September 8, 2005. On August 9, 2005, the Board decided to schedule a special meeting on September 6, 2005 for the purpose of accepting the report, and taking related actions, prior to the expiration of the deadline referenced in the previous paragraph. Given the limited time to prepare the report, the report will not be available until the morning of September 6, 2005 to allow sufficient time for completion and copying.

Following the presentation of the report to the Board the options of the Board are to either (1) adopt the initiative without alteration on September 6, 2005, or within 10 days of September 6, 2005, or (2) call an election not less than 88 days prior to June 6, 2006.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Section 9111 of the California Elections Code provides that before taking an action to either adopt a county initiative without alteration or submit the initiative to the voters, the Board of Supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the matters identified in Section 9111. The report must be completed and presented to the Board of Supervisors no later than 30 days after the county elections official has certified to the Board of Supervisors that the initiative petition has been found sufficient.

The report may contain an analysis of any or all of the following matters:

- (1) The initiative's fiscal impact.
- (2) The initiative's 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) The initiative's 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) The initiative's 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) The initiative's impact on the community's ability to attract and retain business and employment.
- (6) The initiative's impact on the uses of vacant parcels of land.
- (7) The initiative's 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.

The initiative was certified as sufficient by the Napa County Registrar of Voters on August 9, 2005 and on that same date the Board of Supervisors ordered the preparation of a report pursuant to Section 9111 of the Elections Code. The last day to present the report to the Board of Supervisors therefore is September 8, 2005. On August 9, 2005 the Board decided to schedule a special meeting on September 6, 2005 for the purpose of accepting the report, and taking related actions, prior to the expiration of the 30 day deadline.

Given the limited time to prepare the report, the report will not be available until the morning of September 6, 2005 to allow sufficient time for completion and copying.

Following the presentation of the report to the Board, the options the Board may consider are limited to the following:

- A. Adopt the "Fair Payment For Public Benefit Act" initiative without alteration on September 6, 2005 or within 10 days of September 6, 2005 (i.e. at the next regular Board meeting on September 13, 2005); or
- B. Call an election not less than 88 days prior to June 6, 2006.

If option B is selected Elections Code section 1405 controls the timing of the election. That section provides that the initiative election shall be held at the next statewide election occurring not less than 88 days after the date of the order of election. The Elections Code does not expressly identify when the Resolution ordering the election must be adopted. However, the election must occur on June 6, 2006 and the order of election must occur at least 88 days prior to June 6, 2006. Therefore the Resolution ordering the election must be adopted at a point in time that will enable the voters to vote on the initiative on June 6, 2006.

Past practice has been for the staff to prepare the required Resolution and place it on the Board's consent calendar within a few weeks of the Board making its decision not to adopt an initiative. Absent direction from the Board, this is the process which will be followed in regard to this initiative election.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Lorenzo Zialcita