

★ ARGUMENT IN FAVOR OF PROPOSITION 71 ★

Proposition 71 is a simple common sense update of our elections laws, which will ensure accurate results following the approval of a ballot measure by voters. This is a non-controversial constitutional fix with bi-partisan support.

Proposition 71 provides that an initiative statute, referendum, or constitutional amendment approved by the voters takes effect *after* the Secretary of State has fully and completely counted all the votes and files the Statement of Vote.

Under existing law an initiative statute, referendum, or constitutional amendment approved by the voters takes effect on the day after the election, unless otherwise specified by the measure itself. However, existing law has created some uncertainty for Californians who are directly impacted by propositions. An example was Proposition 67 (2016), a referendum relating to the ban on single-use plastic bags, signed into law by the Governor in 2014. Californians voted in favor of Proposition 67 which allowed the ban to stand, however questions remained as to when the actual ban, established by the Legislature, would go into effect. Proposition 71 will prevent such confusion in future elections by shifting the implementation date of measures to after election results are certified by the Secretary of State, providing a clear effective date for statewide propositions.

Proposition 71 will enhance the accuracy of statewide election results. In 2016, 53% of all voters (about 9.2 million Californians) were registered to vote-by-mail. Given the convenience, it is likely that the trend toward more voters choosing to vote-by-mail will increase. This trend, while positively encouraging voter participation, has also lengthened the time it takes to count ballots. Elections officials must confirm each voter's registration status and verify each voter's signature on the vote-by-mail envelope. Additionally, mailed ballots may arrive at county elections offices on, or up to three days after, Election Day. In some instances, election results can be very close.

History has shown that results of an election contest can change after the Election Day vote tally. Shifting the implementation date of initiatives, referenda, and constitutional amendments to after election results have been certified by the Secretary of State will ensure the true and correct implementation of ballot measures. Please vote "YES" on Proposition 71.

KEVIN MULLIN, Speaker pro Tempore
California State Assembly
RALPH E. SHAFFER, Professor Emeritus
Cal Poly Pomona
HELEN HUTCHISON, President
League of Women Voters of California

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 71 ★

The current language of the State Constitution makes a ballot measure approved by voters take effect (unless the measure otherwise provides) *"the day after the election."*

Because a measure cannot (chronologically) take effect until the result of the vote has been determined and certified, the phrase *"the day after the election"* means only that a measure which passes may be retroactive to that earlier date.

In the case cited by proponents, the voters' 2016 decision on a referendum to uphold the Legislature's ban on single-use plastic bags took effect when the outcome of the election was certified, and the earlier date did not matter. But sometimes an earlier (retroactive) date can matter.

For example, suppose there were an initiative on the June 5, 2018 ballot which proposed that serial child molesters had to be sentenced by judges to life in prison without the possibility of parole.

If Proposition 71 were to pass, the new life-in-prison law (in the above hypothetical) could not take effect until the final vote certification—giving child molesters time (up to 38 days currently) to attack more victims under the sentencing law voters had seen fit to change.

Proposition 71 appears to be unnecessary and disadvantageous in some situations.

GARY WESLEY

★ ARGUMENT AGAINST PROPOSITION 71 ★

This is a proposal by the State Legislature to amend two provisions of the California Constitution regarding most statewide ballot measures.

Some ballot measures (including this one) are proposed by the State Legislature; others qualify for the ballot through the voter petition process.

Anytime the State Legislature proposes to change the process, the proposal is worth examining carefully. Most legislators would not likely favor measures that qualify for the ballot through the petition process. Usually, the petition process is used when the Legislature will not make a change on its own or has passed a law that voters want to suspend and eliminate by “referendum.”

There is some danger in this measure that the State Legislature could, in the future and by its own enactment, delay how long the Secretary of State may take to declare the outcome of elections on measures (currently 38 days) and thereby undermine the process.

The Legislature’s summary of this measure (in what’s called Assembly Constitutional Amendment 17—“ACA 17”) reads as follows:

The California Constitution provides that an initiative statute, referendum, or constitutional amendment or revision approved by a majority of voters thereon takes effect the day after the election unless the measure provides otherwise. Existing law requires the Secretary of State to compile the results of all

statewide measures, and to prepare, certify, and file a statement of the vote from the compiled results no later than the 38th day after the election.

This measure would instead provide that an initiative statute, a referendum, or a constitutional amendment or revision approved by a majority of voters thereon takes effect 5 days after the Secretary of State files the statement of the vote for the election at which the measure is voted on, and the measure clarifies that an initiative statute, referendum, or constitutional amendment or revision may provide that it become operative after its effective date. This measure would also make nonsubstantive changes to these provisions.

While the summary is correct, some folks may wonder whether the Legislature is addressing a real problem with the existing Constitutional language (adopted way back in 1970). No law enacted by voters can ever take effect before the outcome of the vote has been determined. As currently written, the language makes changes retroactive to the day after an election (unless the enacted change otherwise provides). The amendments proposed by this measure would eliminate such an early (and retroactive) effective date for a law enacted by state voters.

Maybe proponents will explain more about why this measure is needed.

GARY WESLEY

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 71 ★

Assembly Constitutional Amendment 17, which is now before California voters as Proposition 71, passed both houses of the Legislature with Republican and Democratic support. There was not a single “NO” vote cast. Why? Because, in bi-partisan fashion, lawmakers agreed that Proposition 71 is a minor, technical yet necessary fix. Proposition 71 clarifies an issue that may arise as a result of more voters choosing to cast their vote by mail.

Current law requires that ballot initiatives go into effect the day after the election. Proposition 71 simply clarifies existing law to be consistent with the reality that in some instances the results of elections may not be determined for several days after the election.

The California State Senate analysis notes: “Proposition 71 will delay the enactment of initiative or referenda until five days after the Secretary of State releases the Statement of Vote.

By delaying the enactment until after the vote has been certified, this measure ensures that the true and correct implementation of ballot measures occurs.”

Under California law, all changes to the Constitution must be approved by the voters. The Legislature cannot, on its own, delay implementation of voter enacted initiatives. In 1970, no one anticipated the growth in votes being cast by mail as we are seeing today. Proposition 71 is a minor, simple fix intended to clarify existing law. Please vote YES on Proposition 71.

KEVIN MULLIN, Speaker pro Tempore
California State Assembly, District 22
MARC BERMAN, Chair, Assembly Committee on
Elections and Redistricting
California State Assembly, District 24
HENRY STERN, Chair, Senate Committee on
Elections and Constitutional Amendments
California State Senate, District 27