

**SB**

**313**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: April 19, 1998

FURTHER REFERRALS:

Date of Committee Action: 5/8/98

The FINANCE Committee considered:

SB 313

SENATE BILL NO. 313

PROCEDURES FOR INITIATIVES

"An Act relating to sponsor certification of initiative petitions; relating to sponsor identification during petition circulation; relating to the voidability of an initiated law; placing limitations on the compensation that may be paid to sponsors of initiative petitions; prohibiting payments to persons who sign or refrain from signing initiative petitions; and repealing procedures for filing a supplementary initiative petition."

recommends it be replaced  the same title  
 with the following committee substitute HCS CSSB 313(FIN)  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) <sup>Senate</sup> Leut. Gov 3/19/95

SIGNING <u>WITH RECOMMENDATIONS</u>	DP	DNP	NR	AM
<i>Therriault</i> Therriault			x	
<i>Kohring</i> Kohring				x
<i>Mulder</i> Mulder			x	
<i>Grussendorf</i> Grussendorf			x	
<i>Kelly</i> Kelly			x	
<i>Moses</i> Moses			x	
<i>Davis</i> Davis			x	
<i>Davies</i> Davies				x

CHAIR'S SIGNATURE *Therriault*



# Taking on California's initiatives law

■ "Paradise Lost: California's Experience, America's Future," by Peter Schrag (The New Press, \$25, 344 pp.)

Reviewed by JOHN MUNCIE  
THE CALIFORNIA PRESS

California's at it again: another citizens' initiative, another end run around the state's legislature, another can of worms.

The story, which made the front page of the New York Times recently, must have forced a sigh of resignation from Peter Schrag. His new book, "Paradise Lost," is all about California's initiative process. It's his contention that initiatives, not earthquakes, are driving California into the sea.

California's initiative law was written into the state constitution in 1911. It was mostly forgotten until tax crusader Howard Jarvis, angered by what he considered a greedy, stalemated legislature, went directly to the voters. In 1978, he collected the requisite signatures and put Proposition 13, a stringent tax limitation measure, on the ballot. It passed easily.

"Prop 13," as it's universally called, has the same resonance in

California as, say, the term "Cosa Nostra" has in Sicily. You may hate it or swear allegiance to it, but Prop 13 is inescapable. Its ramifications are central to "Paradise Lost," which examines the state's socio-political history since its enactment.

In its first decade, Prop 13 saved taxpayers as much as \$228 billion and completely changed the state's financial underpinnings. Immediately, local agencies lost between \$6 billion and \$7 billion annually. The result: Social services were shot; the infrastructure crumbled; the school system was devastated. "Good-bye El Dorado," as Schrag titles one of his chapters.

Equally important, Prop 13 started a whole politics-by-initiative movement. Soon there were Prop 4 and 71 and 98 and 140. Props have targeted everything from affirmative action to immigration (the infamous Prop 187 of 1994). Since 1978, 40 initiatives have passed, many more have been defeated.

If all these numbers are giving you a headache, reading "Paradise Lost" may only increase the pain. The facts and figures come

in waves. Keeping track is like trying to surf a civics lesson.

This is a great shame. Even if Schrag overstates the impact of initiatives — they didn't cause the state's population to double since the '60s — "Paradise Lost" raises profound questions.

A longtime editorial page editor of the Sacramento Bee, Schrag has seen the initiative system, begun by populist reformers fighting railroad barons, become co-opted by political manipulators. "We will qualify a Constitutional Amendment ... in 45 days," brags one direct mail company.

Initiatives are pure democracy; citizens vote directly on the issues. It's a good idea, if you believe government is the problem. Schrag doesn't. When legislators are effectively cut out of the process, he says, so too are expertise, reasoned discourse and compromise.

California's history often becomes the nation's destiny. If "Paradise Lost" were a more focused, coherent book it might serve as a warning shot. This is more like a warning shout. Still, we'd be wise to listen.

05/03/98  
John Muncie

**SB-313. "AN ACT RELATING TO SPONSOR CERTIFICATION OF INITIATIVE PETITIONS; RELATING TO SPONSOR IDENTIFICATION DURING PETITION CIRCULATION; RELATING TO THE VOIDABILITY OF AN INITIATED LAW; PLACING LIMITATIONS ON THE COMPENSATION THAT MAY BE PAID TO SPONSORS OF INITIATIVE PETITIONS; PROHIBITING PAYMENTS TO PERSONS WHO SIGN OR REFRAIN FROM SIGNING INITIATIVE PETITIONS; AND REPEALING PROCEDURES FOR FILING A SUPPLEMENTARY INITIATIVE PETITION."**

**THIS IS WHAT SB-313 DOES:**

- Prohibits buying signatures on an initiative petition.
- Prohibits "head hunting" paying initiative solicitors a fixed fee per signature. It does not prohibit hourly wage (minimum or higher).
- Eliminates the 30 day extension for initiative failing to obtain enough signatures at initial turn in time deadline. Current lateness of certification effectively removes the legislatures option of addressing the issue by statute.
- Requires initiative solicitor to wear an identification badge indicating their name and voter registration number. This will eliminate the current instances of over aggressive and intimidating initiative solicitors refusing to identify themselves.

"The name of the group circulating the petition and the name of the group paying for the petition, if different, shall both be prominently displayed in bold, capital letters, on the bottom of each signature page of the petition."

By Davies

Conceptual

Amendment

adopted

● **TALKING POINTS ON SB 313**

● **The problems:**

- Section 1 has two subsections that the Alaska courts may find as unconstitutional:
- Subsection (b) requiring initiative sponsors to wear ID badges when circulating a petition to obtain signatures; and
- Subsection (c) imposing a limit on the amount of money signature gatherers may be paid for obtaining signatures on initiative petitions.

● **Key elements:**

- Initiative petitions implicate "core political speech" entitled to the highest level of protection under the First Amendment to the United States Constitution.
- The ID badge issue is now on appeal to the United States Supreme Court in the case American Constitutional Law Foundation v. Meyer, 120 F.3d 1092 (10th Cir. 1997).
- The federal court of appeals found in Meyer that the ID badge requirement was unconstitutional, in violation of the First Amendment.
- The United States Supreme Court has already invalidated a state ban on payment to initiative signature gatherers - Meyer v. Grant, 486 U.S. 414 (1988), on First Amendment grounds.
- A strict limit on payment to signature gatherers raises similar constitutional issues, and could also be invalidated by the Alaska courts.

● **Recommendations**

- Amend SB 313 on page 1, at lines 9 -- 10 to delete proposed new subsection AS 15.45.110(b).
- Amend SB 313 on pages 1 and 2, at line 11--13, and page 2, lines 1 -- 2 to delete proposed new subsection AS 15.45.110(c).
- Make conforming amendments throughout SB 313 to remove cross-references to the two subsections deleted above.

# LEGAL SERVICES

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STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

May 9, 1998

**SUBJECT:** Initiative petitions (HCS SB 313(FIN))

**TO:** Representative Gene Therriault  
Attn: Louanne Christian

**FROM:** Richard A. Glover - *RAG*  
Legislative Counsel

I forward the requested committee substitute for the referenced bill. I have attempted to draft the conceptual amendment to achieve what appears to be the intent to disclose the source of payment to sponsors of a petition. Please review the draft carefully to be sure I have interpreted your intent correctly.

The amendment to alter AS 15.45.110(c) may allow certain payments that you may not intend. Under the new text, "bonus" payments, i.e. "I agree to pay you \$1000 if you collect 100 signatures" could possibly be allowed, since payment is not based on a "per signature" calculation.

If I may be of further assistance, please advise.

RAG:glc  
98-279.glc

Enclosure

AMENDMENT

#2  
A  
final

OFFERED IN THE HOUSE

BY

DAVIES

TO SB 313

Page 1, delete lines 9 - 10

Page 2, line 6, following "violates"

Delete "(b)"

Insert "(c)"

Page 3, delete lines 23 thru line 25.

AMENDMENT

OFFERED IN THE HOUSE

TO: SB 313

BY:

*Muller*

#1

Page 1, lines 11 - 13:

Delete all material

Insert "(c) A sponsor may not receive payment or agree to receive payment that is greater than \$1.00 per signature, and a person or an organization may not pay or agree to pay an amount that is greater than \$1.00 per signature, for the collection of signatures on a petition.

Page 2 lines 1 - 2

Delete all material.

<i>V</i>	<i>N</i>
<i>K</i>	<i>Mo</i>
<i>fo</i>	<i>DV</i>
<i>Mo</i>	<i>G</i>
<i>DA</i>	
<i>T</i>	
<i>MA</i>	

TYRANT

AMENDMENT

B

w/d

OFFERED IN THE HOUSE

BY

DAVID

TO SB 313

Page 1, line 11, delete thru page 2, line 2

Page 2, line 6, following "violates"

Delete "(b) - (d)"

Insert "(b) and (d)"

Page 2, line 20, following "signature,"

Delete "(6) the person has not entered into an agreement with a person or organization in violation of AS 15.45.110(c), and (7)"

Insert "and (6)"

Page 3, line 26, following "AS 15.45.110"

Delete "(c)"

Insert "(d)"

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Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2103

## MEMORANDUM

May 8, 1998

**SUBJECT:** Initiative petitions (SB 313)

**TO:** Senator Bert Sharp  
Attn: Marilyn Wilson

**FROM:** Richard A. Glover - RAG -  
Legislative Counsel

At your direction, I have reviewed the American Constitutional Law Foundation v. Meyer<sup>1/</sup> case, and have conferred with Ms. Sarah Felix at the Department of Law. As I indicated in my earlier memos, restrictions on circulation of initiative petitions are a particularly troubling area of first amendment doctrine, and is an area that is not well settled. The American Con. Law Foundation case does indicate that the identification badges required by the Colorado law are unconstitutional as violative of first amendment protections of anonymous speech. The court did hold unconstitutional the aspects of the Colorado law that required the petition gatherers to make certain acknowledgments that the signatories of the petitions were verified subjectively to be qualified voters. Both of these issues are raised by SB 313.

The American Con. Law Foundation case is a 10th Circuit Court of Appeals case that has recently been granted certiorari by the U.S. Supreme Court. As such it is not currently controlling in our jurisdiction. However, I believe the State of Alaska is supporting the challenge to the 10th circuit court ruling to the U.S. Supreme Court, and, as always, it is uncertain how the court will decide.

The provisions of SB313 are not currently clearly unconstitutional, and there are significant factual differences between the Colorado statutory and constitutional requirements and the corresponding Alaska requirements which may serve to distinguish the holding in American Con. Law Foundation from the provisions of SB313. However, there is troubling language in that opinion, that if adopted by the U.S. Supreme Court, could defeat the provisions of SB313. I realize it is difficult to make the important policy decisions when the best legal advice available is that "we don't know," but in this case, I am afraid it is the best I can offer. If I may be of further assistance, please advise.

RAG:glc:jr  
98-273.glc

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<sup>1/</sup>120 F. 3d 1092 (10th Cir. 1997), cert. granted in Buckley v. American Constitutional Law Foundation, Inc., 118 S.Ct. 1033 (U.S., Feb. 23 1998)



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### SPONSOR STATEMENT

#### SB-313

**BY: SENATOR BERT SHARP**

IT IS OFTEN ASSUMED THAT PERSONS OBTAINING SIGNATURES ON A BALLOT INITIATIVE ARE VOLUNTEERS WHO BELIEVE STRONGLY IN THEIR CAUSE. UNFORTUNATELY, THAT IS MORE OFTEN NOT THE CASE. INSTEAD, IT IS MORE LIKELY THESE SOLICITORS ARE SIGNATURE BOUNTY HUNTERS WHO ARE PAID BY THE SPONSOR OF THE INITIATIVE.

IN AN EFFORT TO BRING THE INITIATIVE PROCESS BACK TO A MORE GRASSROOTS EFFORT, SB-313 REQUIRES VISUAL IDENTIFICATION OF NAME AND A VOTER REGISTRATION IDENTIFICATION NUMBER OF THE PETITION CIRCULATORS AND ALSO PROHIBITS PAYMENT PER SIGNATURE BY THE SPONSOR.

THIS BILL ALSO PROHIBITS PAYING A PERSON TO SIGN A PETITION.

IN ADDITION, EXISTING LAW GRANTS A 30 DAY EXTENSION TO A SPONSOR IF THEY ARE UNSUCCESSFUL IN OBTAINING THE REQUIRED NUMBER OF VERIFIED SIGNATURES WITHIN THE ALLOWED TIME FRAME. SB-313 WILL ELIMINATE THIS 30 DAY EXTENSION. THIS WAY, IF THE REQUIRED NUMBER OF SIGNATURES ARE NOT SUCCESSFULLY OBTAINED, THE INITIATIVE SIMPLY DOES NOT APPEAR ON THE BALLOT.

THE FLURRY OF INITIATIVES THAT WE ARE CURRENTLY EXPERIENCING HAS RESULTED IN THE VERIFICATION OF SIGNATURES AND THUS QUALIFYING FOR THE BALLOT COMING AS LATE AS THE MIDDLE OF APRIL RESULTING IN ELIMINATING THE POSSIBILITY OF THE LEGISLATURE BEING ABLE TO REACT BY CRAFTING A SIMILAR STATUTE.

THE NUMBER OF INITIATIVES APPEAR TO BE GROWING AND THE RESULTS MAY WELL BE THE CALIFORNIZATION OF OUR ENTIRE LEGISLATIVE PROCESS.

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LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 310

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

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## MEMORANDUM

February 23, 1998

**SUBJECT:** Sectional Summary of SB 313

**TO:** Senator Bert Sharp  
Attn: Marilyn Wilson

**FROM:** Richard A. Glover - *RAG*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill enacts a requirement for petition circulators to display identification. The section enacts a provision that prohibits payments to petition circulators if the payments are based on the number of signatures gathered. Payments to signatories of initiative petitions are also prohibited. A violation is made a class B misdemeanor.

Section 2 of the bill enacts additional requirements of petition sponsors filing initiative petitions. The sponsors must state in the filing affidavit (in addition to the current requirements) that the signatories are qualified voters, that no payments to the sponsor on a per signature basis were received or agreed to, and the sponsor did not pay or offer payment to signatories.

Section 3 of the bill makes technical corrections required by section 6 of the bill.

Section 4 of the bill makes a technical correction required by sec. 6 of the bill.

Section 5 of the bill makes acts of accepting, soliciting, or agreeing to accept payment for signing a petition, crimes of improper subscription to a petition.

Section 6 of the bill eliminates the provisions for supplemental initiative petitions, and repeals the statute that prohibits invalidation of an initiative based on an insufficiency of the initiative's application or petitions.

Senator Bert Sharp  
February 23, 1998  
Page 2

Section 7 of the bill specifies the applicability of the bill sections to conform to various constitutional requirements.

RAG:pl:jr  
98-036.plm