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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AURELIO SALAZAR, JUAN
MARTINEZ, and BILL MELENDEZ,

Plaintiffs,

v.

MONTEREY COUNTY, CALIFORNIA;
STATE OF CALIFORNIA; KEVIN
SHELLEY, CALIFORNIA
SECRETARY OF STATE,

Defendants.

AND RELATED ACTION.

Case No. 03-03584-JF (HRL)
[Related to Case No. 03-3658-JF]

**DECLARATION OF JOHN MOTT-
SMITH IN OPPOSITION TO
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

DATE: AUGUST 15, 2003
TIME: 9:30 A.M.
COURTROOM: 3

THE HONORABLE JEREMY FOGEL,
PRESIDING

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I, JOHN MOTT-SMITH, declare:

1. I am employed in the Office of the Secretary of State and have been for the last 19 years. I am presently Chief of the Elections Division. I am responsible for the operations of that Division and generally for oversight responsibility of the Secretary of State's Office as it relates to the conduct of elections in California. I have been directly involved in the administration of elections on a statewide basis, including all measures and candidates for statewide office. I have been continuously involved in all aspects of the special recall election involving Governor Gray Davis.

2. On July 23, 2003 the Secretary of State certified that sufficient signatures had been submitted concerning the recall of Governor Gray Davis so that a recall election must be held. On July 24, 2003, the Lieutenant Governor issued a Proclamation calling for the election to be held on October 7, 2003.

3. The calling of the election triggered the candidate filing process. Candidates have an extremely abbreviated time to obtain nomination signatures and pay a filing fee under the very compressed time frames required by this special recall election. All candidate documents were filed within an unusually abbreviated period between July 24 and August 9, 2003. The candidate filing process is now complete.

4. Time is of the essence. Every day that election processes are not taking place is a day lost that cannot be recovered. Elections Code section 11381 requires the Secretary of State, not less than 55 days before the recall election, to deliver to county election officials a certified list of candidates qualified to appear on the ballot at the recall election. The 55th day prior to the October 7, 2003 special statewide election is August 13, 2003. County election officials are already typesetting their ballots and will make their final changes once the certified list of candidates is distributed on August 13. At that point the ballots will go to print.

1 In order for the counties to ensure that they have ballots ready for the October 7
2 election, county election officials must begin the process of printing their ballots
3 immediately upon receipt of the certified list of candidates, particularly because
4 there are only a small number of approved printers for printing ballots for all of
5 the counties in California. Dozens of ballot styles must be prepared to comply
6 with the candidate rotation requirements of the Elections Code. Any delay at this
7 point will create electoral chaos and threaten the holding of the special recall
8 election.

9 5. Overseas ballots must be mailed immediately so that there will
10 be sufficient time for the ballots to be returned before election day in order to
11 substantially comply with the Elections Code requirement that they be mailed
12 beginning on the 60th day before the election. August 8th was the 60th day before
13 the October 7th election, but since the "Certified List of Candidates" was not
14 available until August 13th, county registrars could not mail overseas ballots prior
15 to that time and, consequently, they could not fully comply with Elections Code
16 section 3103.

17 6. Absentee ballots may be cast beginning September 8, 2003,
18 which is 29 days before the election. Ballots normally go to print 68 days before
19 an election in order to make certain that ballots will be available for overseas
20 voters and absentee voters. Counties have already been forced to reduce their
21 ballot printing time by 13 days and face extraordinary challenges to provide the
22 numerous required ballot types in a timely manner so that all eligible voters can
23 participate in the special recall election. Any delay in the process at this point
24 would threaten to make it impossible to have ballots available for the election.

25 7. On August 4, 2003, I sent a request to the Voting Section of the
26 U.S. Department of Justice for expedited preclearance under Section 5 of the
27 Voting Rights Act. (Please see Exhibit "A" attached hereto and incorporated herein
28 by this reference.) I made this submission on behalf of the four California

1 counties who must preclear any voting changes. Those four counties are Kings,
2 Merced, Monterey, and Yuba. On August 11, 2003, I forwarded to the
3 Department of Justice a copy of the complaint in this lawsuit so that the
4 Department of Justice is aware of the urgency to expeditiously preclear the special
5 recall election. (Please see Exhibit "B" attached hereto and incorporated herein
6 by this reference.)

7 8. The 20-day public display period required by Elections Code
8 section 9092 for the state ballot pamphlet runs from August 11 through August
9 31, 2003. Any challenges to the contents of the ballot pamphlet must be made
10 during this 20-day period. The contents of the ballot pamphlet include
11 Propositions 53 and 54, candidate statements for replacement candidates for
12 Governor, and information on the recall.

13 9. The ballot pamphlet must go to print at 5:00pm on August 31,
14 2003 so that ballot pamphlets can be mailed to the household of every registered
15 voter, approximately 11 million households, not later than September 16, 2003,
16 in order for it to be received prior to the October 7 election date, as required by
17 Elections Code section 9094.

18 10. The Secretary of State has determined that, if the special recall
19 election is enjoined from going forward in Monterey County, the special statewide
20 election currently set for October 7, 2003 can not take place in October because
21 it would be unconstitutional to disenfranchise Monterey County's voters while, at
22 the same time, allowing the 54 "non-covered" jurisdictions in California to proceed
23 with the recall election.

24 11. The Secretary of State has also determined that, in the event
25 the U.S. Attorney General denies the pending request for preclearance of the
26 October 7, 2003 special statewide election, the election will be postponed until a
27 further date.

28 I declare under the laws of the State of California that the foregoing

1 is true and correct and that this declaration was executed on August 14, 2003, at
2 Sacramento, California.

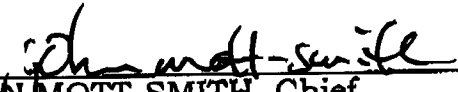
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5 JOHN MOTT-SMITH, Chief
6 Elections Division, Secretary of State
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Exhibit "A"

*Declaration of John Mott-Smith in
Opposition to Application for TRO*



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

August 4, 2003

**Via Fax (202) 616-9514
and FedEx**

Joseph D. Rich
Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., N.W.
Washington, DC 20006

RE: Request for "Expedited Consideration" of our Submission Under Section 5 of the Voting Rights Act

Dear Mr. Rich:

This letter is to advise you that a Special Statewide Election has been called pursuant to pre-existing California law to determine whether to recall the Governor and elect a successor. We are submitting this request for "Expedited Consideration" for pre-clearance to you on behalf of four California counties: Monterey, Merced, Yuba, and Kings, which are covered jurisdictions under Section 5 of the Voting Rights Act, and which require pre-clearance of changes in their election procedures. We request you to pre-clear this special election as expeditiously as possible given the fact that a request for a temporary restraining order and a complaint for declaratory and injunctive relief have been filed in the United States District Court in the Northern District of California in the case of *Salazar v. Monterey County*, and that this special election is 64 days away and candidate filing is well underway. (A copy of the complaint filed in *Salazar* is enclosed.)

As you may know, a petition to recall Governor Gray Davis was recently certified. This will result in a Special Statewide Recall Election to be held October 7, 2003. On that ballot, voters will be asked whether Gray Davis should be removed from office, and if he is removed, who should succeed him as Governor. Enclosed for your information and convenience, please find an election calendar (Calendar of Events and Election Information) for the Special Statewide Election and within the Calendar please find a copy of the Proclamation of the Lieutenant Governor calling the election.

ELECTIONS 1522 HILL STREET, 5TH FLOOR • SACRAMENTO, CA 95814 • TEL 916 657 2166 • FAX 916 653 3214 • WWW.SS.CA.GOV

PROGRAMS ARCHITECTS, BUSINESS PROGRAMS, ELECTIONS, INFORMATION TECHNOLOGY, GOLDEN STATE MUSEUM,
MANAGEMENT SERVICES, STATE ACCOUNTS, DOMESTIC PARTNERS REGISTRY, NOTARY PUBLIC, POLITICAL REFORM

The recall of Governor Gray Davis has followed the constitutional and statutory scheme laid out in Article II of the California Constitution, and Elections Code sections 11000 *et seq.* The recall process began on February 5, 2003 when the proponents served a Notice of Intention to recall on the Governor and filed a copy of that Notice with the Secretary of State. The Governor then submitted his answer and a recall petition was drafted. The Secretary of State approved the recall petition for circulation on March 25, 2003. On July 23, 2003 the Secretary of State certified that petition sections containing sufficient signatures had been submitted concerning the recall of Governor Gray Davis so that a recall election must be held. On July 24, 2003, the Lieutenant Governor issued a Proclamation calling the election to be held on October 7, 2003.

This request is predicated on the use of an election date that is not a regular election date as specified in the Elections Code. The recall election will be a special election as provided for in the Constitution and Elections Code. The election procedures are governed by longstanding California law. The election date was set according to Article 2, section 15 of the California Constitution which requires the election to be held not less than 60 nor more than 80 days from the date of the certification of sufficient signatures.

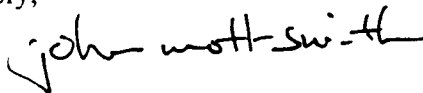
The Lieutenant Governor had three possible election dates that fell within the 60 to 80 day window. Those dates were September 23, September 30, or October 7, 2003. The Lieutenant Governor called the election for October 7, which was the election date that allowed the most time for candidates to file their nomination documents, and allowed the most time for arguments to be submitted and exchanged for and against measures that will appear on the Special Statewide Recall Election ballot.

Elections Code section 11381 sets forth the timeline for the candidate nomination process. It requires nomination papers to be filed no later than 59 days before the election, and requires the Secretary of State to issue a certified list of candidates no later than 55 days before the election. Although this is an abbreviated schedule, it is laid out in the Elections Code for this special instance of the recall of a statewide official.

Two measures will be included on the special election ballot. Proposition 53 was placed on the next statewide ballot by the legislature, and Proposition 54 was placed on the next statewide ballot through the initiative process. Since the October 7, 2003 Special Statewide Election is the next statewide election, Propositions 53 and 54 were placed on the ballot pursuant to Elections Code section 9040 and Article II, section 8(c) of the California Constitution, respectively. (Copies of those measures are enclosed.)

I trust this information and enclosed material will assist you in the expeditious review of this request. Should you have any questions, please contact me at (916) 657-2166.

Sincerely,



JOHN MOTT-SMITH
Chief, Elections Division

enclosures

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11 Attorneys for Plaintiffs.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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AURELIO SALAZAR, JUAN
17 MARTINEZ, and BILL MELENDEZ,

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Plaintiffs,

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v.

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21 MONTEREY COUNTY,
CALIFORNIA; STATE OF
CALIFORNIA; KEVIN SHELLEY,
22 CALIFORNIA SECRETARY OF
STATE,
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Defendants.

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Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**VOTING RIGHTS ACTION
THREE JUDGE COURT**

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

CASE NO.

1 **INTRODUCTION**

2 1. This voting rights action, filed under Section 5 of the Voting
3 Rights Act, 42 U.S.C. § 1973c, seeks declaratory and injunctive relief to address
4 the failure of Defendants Monterey County, the State of California, and Secretary
5 of State Kevin Shelley (collectively “Defendants”) to obtain the necessary Section 5
6 preclearance for numerous voting changes relating to the election date and the
7 timelines, deadlines, and procedures being applied to the “Classification By Race,
8 Ethnicity, Color or National Origin, Initiative Constitutional Amendment”
9 (“CRECNO Initiative”) ballot initiative election.

10 2. On or about July 25, 2003, the California Secretary of State certified
11 that the CRECNO Initiative had qualified for the March 2, 2004 primary election.
12 The Secretary of State then made available an “Official California Voter
13 Information Guide” for the March 2, 2004 election (“March 2, 2004 Voter Guide”).
14 It set forth various timetables and deadlines relating to conducting the March 2,
15 2004 ballot initiative election, which would include the CRECNO Initiative.

16 3. On or about July 24, 2003, the Secretary of State changed the election
17 date for the CRECNO Initiative from March 2, 2004 to October 7, 2003, and made
18 available an “Official California Voter Information Guide” for the October 7, 2003
19 special election (“October 7, 2003 Voter Guide”). This new guide set forth
20 timetables and deadlines relating to the October 7, 2003 election that differed
21 markedly from those first established by the Secretary of State for the March 2,
22 2004 election.

23 4. The change in election date for the CRECNO Initiative from March
24 2, 2004 to October 7, 2003 – a change of nearly five months – constitutes a voting
25 change that has not received Section 5 preclearance. The departure from statutorily
26 established timelines for the review, printing, and distribution of the

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28 ballot pamphlet for an initiative election also constitute voting changes that have not

1 received Section 5 preclearance.

2 5. Accordingly, Plaintiffs seek both preliminary and permanent
3 injunctive relief enjoining the enforcement or implementation of the changes in
4 voting practices until Section 5 preclearance is secured.

5 JURISDICTION

6 6. This Court has jurisdiction over this action under 42 U.S.C. §
7 1973c, 28 U.S.C. §§ 1331, 1343(3), 1343(4), and 2201.

8 PARTIES

9 7. Plaintiffs AURELIO SALAZAR, JUAN MARTINEZ, and BILL
10 MELENDEZ are citizens of the United States, and registered voters residing in
11 Monterey County, California.

12 8. Defendant MONTEREY COUNTY, CALIFORNIA is a
13 governmental entity organized under the laws of the State of California.

14 9. Defendant STATE OF CALIFORNIA is a governmental entity
15 organized under the laws of the State of California.

16 10. Defendant KEVIN SHELLEY is the duly elected Secretary of State
17 of California. As Secretary of State, Defendant Shelley serves as California's Chief
18 Elections Officer. Defendant Shelley is sued in his official capacity.

19 FACTS

20 Section 5 Coverage

21 11. Monterey County is a covered political subdivision under Section 5
22 of the Voting Rights Act. 42 U.S.C § 1973c. Accordingly, all voting qualifications
23 or prerequisites to voting, or standards, practices, or procedures with respect to
24 voting enacted, adopted, or implemented by Monterey County, California on or
25 after November 1, 1968 must be pre-cleared under Section 5 of the Voting Rights
26 Act. 42 U.S.C. § 1973c.

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28 CRECNO Initiative Chronology For March 2, 2004 Election

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

CASE NO.

1 12. On or about July 15, 2002, the Secretary of State certified
2 that the CRECNO Initiative had qualified for the March 2, 2004 primary election.

3 13. On or about July 24, 2003, the Secretary of State made available the
4 March 2, 2004 Voter Guide. It set forth various timetables and deadlines relating to
5 conducting the March 2, 2004 ballot initiative election, as established by various
6 provisions of the California Elections Code:

- 7 • November 13, 2003 - Last Day For Submission of Summary
8 Information And Rebuttal Arguments;
- 9 • November 14, 2003 - Submission of Titles and Summaries, Analyses,
10 "Yes/No" Information, Overview of State Bond Debt and Text For
11 Measures;
- 12 • November 18, 2003 - Available For Public Inspection;
- 13 • December 8, 2003 - Last Day To Deliver Copy To The Printer;
- 14 • January 17, 2004 - Last Day To Furnish Ballot Pamphlets To Counties
15 Mailing Their Own Ballot Pamphlets;
- 16 • January 22, 2004 - Secretary of State To Mail Ballot Pamphlets;
- 17 • February 10, 2004 - Last Day To Complete Ballot Pamphlet Mailing
18 To Voters Registered By E-60;
- 19 • February 21, 2004 - Last Day To Complete Ballot Pamphlet Mailing
20 To Voters Registered By E-29;
- 21 • March 2, 2004 - Election Day.

22 CRECNO Initiative Chronology For October 7, 2003 Election

23 14. On July 25, 2003, the Secretary of State issued a news release
24 assigning proposition numbers to the initiatives set to appear on the October 7,
25 2003 special election, one of which was the CRECNO Initiative, now designated as
26 "Proposition 54."

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28 15. On or about July 26, 2003, the Office of the Secretary of State made

1 available the October 7, 2003 Voter Guide. It set forth various timetables and
2 deadlines relating to conducting the October 7, 2003 ballot initiative election, as
3 established in various provisions of the California Elections Code:

- 4 • July 31, 2003 - Last Day Arguments Accepted For Measures;
- 5 • August 1, 2003 - Selection and Exchange of Arguments For and
6 Against Measures;
- 7 • August 7, 2003 - Last Day For Submission of Summary Information
8 And Rebuttal Arguments;
- 9 • August 11 to August 31, 2003 - Available For Public Inspection;
- 10 • October 7, 2003 - Election Day.

11 Plainly, the election date, timetable, and deadlines relating to the October 7, 2003
12 election differed markedly from those first established by the Secretary of State for
13 the March 2, 2004 election.

14 16. Through its Elections Code, the State of California has established
15 certain minimum mandatory timelines for the preparation, review, printing, and
16 mailing of the ballot pamphlet for an initiative election. These mandates include the
17 requirement that ballot pamphlets be mailed beginning at least 40 days before the
18 election, that the ballot pamphlet be provided to the printer at least 80 days before
19 the election, and that the ballot pamphlet be available for public inspection at least
20 100 days before the election. The timelines relating to the October 7, 2003 election
21 on the CRECNO Initiative depart from the established electoral procedures that the
22 State of California ordinarily follows for an initiative election.

23 **REQUEST FOR THREE JUDGE COURT**

24 17. Under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c,
25 Plaintiffs request the convening of a Three Judge Court.

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28 **FIRST CLAIM FOR RELIEF**

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

CASE NO.

42 U.S.C. § 1973c

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2 18. Plaintiffs reallege paragraphs 1 through 17 above and incorporate the
3 same as though fully set forth here.

4 19. The changes to the ballot initiative election date and the procedures
5 adopted by the Secretary of State and set forth in the October 7, 2003 Voter
6 Guide, constitute voting qualifications, or prerequisites to voting, or standards,
7 practices, or procedures with respect to voting different from those in force or
8 effect on November 1, 1968, in Monterey County, within the meaning of Section 5
9 of the Voting Rights Act, 42 U.S.C. § 1973c.

10 20. Based on information and belief, Defendants have not applied for or
11 received preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. §
12 1973c, from either the United States Attorney General or the United States District
13 Court for the District of Columbia, for changes to the ballot initiative election date
14 and procedures as set forth in the October 7, 2003 Voter Guide.

15 21. The failure of Defendants to secure a determination from either the
16 United States Attorney General or the United States District Court for the District
17 of Columbia that the change in the ballot election initiative date and that the changed
18 procedures adopted by the Secretary of State and set forth in the October 7, 2003
19 Voter Guide, do not have the purpose and do not have the effect of denying or
20 abridging the right to vote on account of race, color, or membership in a language
21 minority group, constitutes a violation of Section 5 of the Voting Rights Act, 42
22 U.S.C. § 1973c.

23 22. The failure of Defendants to secure a determination from either the
24 United States Attorney General or the United States District Court for the District
25 of Columbia that the change in the ballot election initiative date and that the changed
26 procedures adopted by the Secretary of State and set forth in the October 7, 2003
27 Voter Guide, do not have the purpose and do not have the effect of denying or
28 abridging the right to vote on account of race, color, or membership in a language

1 minority group, renders the implementation of these changes legally unenforceable.

2 23. Defendants will enforce the procedures set forth for the October 7,
3 2003 election unless the enforcement of such procedures is enjoined by this Court.
4 Only by granting injunctive relief will Defendants be prevented from proceeding
5 with the procedures relating to the ballot initiative election until they properly
6 comply with Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

7 24. Upon information and belief, Plaintiffs allege that the voting changes
8 specified in paragraphs 1 through 23 will not receive the required Section 5
9 preclearance from either the United States Attorney or the United States District
10 Court for the District of Columbia.

11 INJUNCTIVE AND DECLARATORY RELIEF

12 25. Plaintiffs reallege paragraphs 1 through 24 above and incorporate the
13 same as though fully set forth here.

14 26. This is also an action for declaratory, preliminary, and permanent
15 injunctive relief sought under 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57
16 and 65. Plaintiffs seek a declaration that the failure of Defendants to secure a
17 determination from either the United States Attorney General or the United States
18 District Court for the District of Columbia that the change in the ballot initiative
19 election date and that the changed procedures adopted by the Secretary of State
20 and set forth in the October 7, 2003 Voter Guide, do not have the purpose and do
21 not have the effect of denying or abridging the right to vote on account of race,
22 color, or membership in a language minority group, constitutes a violation of
23 Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, thereby making injunctive
24 relief appropriate. Unless enjoined, Defendants will continue with the enforcement
25 and implementation of the legally unenforceable changes affecting

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27 the voting rights of language, racial, and ethnic minority groups residing in
28 Monterey County.

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- c. An Order granting Plaintiffs their costs of court, necessary litigation expenses, and reasonable attorneys' fees to be adjudged against the Defendants as provided for under 42 U.S.C. §§ 1973l(e) and 1988;
- d. An Order retaining jurisdiction to render such further and additional Orders as the Court may, from time to time, deem appropriate; and
- e. An Order granting such other additional relief at law or in equity as may be deemed appropriate.

Dated: July 31, 2003

Respectfully submitted,
Mexican American Legal Defense
And Educational Fund

By: _____
Joaquin G. Avila
Attorneys for Plaintiffs.

ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003

July 24, 2003	E-75	<u>Lieutenant Governor's Proclamation</u> On this date, the Lieutenant Governor issued his proclamation calling the statewide special election.	Ca. Const. Art. II, secs. 15(a) and 17
Jul 24 to Aug 9	E-75 to E-59	<u>In-Lieu Petitions</u> During this period, candidates may obtain forms from the county elections official for securing signatures in lieu of all or part of the filing fee. Signatures may also be applied to the signature requirement for office on the nomination paper.	§§8061, 8106
Jul 24 to Aug 9	E-75 to E-59	<u>Declaration of Candidacy, Nomination Papers</u> During this period, candidates obtain and deliver nomination papers to the county elections officials for filing with the Secretary of State. Candidates must also file a Declaration of Candidacy during this period. <u>Filing fees</u> shall be paid at the time the candidate files the declaration of candidacy with the county elections official. <u>Candidate statements</u> to be included in the state ballot pamphlet must also be submitted during this period.	§11381(a) §§8105, 8106(b)(3)
Aug 1	E-67	<u>Randomized Alphabet Drawing - Notice</u> The last day for the Secretary of State to notify the news media and other interested parties of the place the randomized alphabet drawing will be held at 11 a.m. on August 11, 2003 (E-57).	§13112(c)
Aug 8	E-60	<u>Notice To Each Candidate</u> Not less than five days before transmission of the certified list of candidates, the Secretary of State will notify each candidate of the names, addresses, occupations, and party affiliations of all other persons who have filed for the office.	§8121
Aug 8	E-60	<u>Registration Files Update</u> Counties using data processing equipment to store registered voter information set forth in the affidavits of registration shall begin their computer updates in order to send a copy of their registered voter files to the Secretary of State by August 18, 2003 (E-50).	§2187

ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003

Aug 8 to Aug 18	E-60 to E-50	<u>Report of Registration – 60-Day County Report</u> During this period, the county elections official shall send to the Secretary of State a summary of the number of persons registered by party in their counties and in each political subdivision thereof as of August 8, 2003.	§§2187
Aug 9	E-59	<u>In-Lieu Petitions</u> The last day to submit in-lieu filing fee petitions to the county elections officials. The county elections officials shall notify the candidate of any deficiencies prior to the close of the nomination period.	§8106(b)(3)
Aug 9	E-59	<u>Declaration of Candidacy and Nomination Papers</u> Last day for the county elections official to certify and file the Declaration of Candidacy and Nomination Papers with the Secretary of State.	
Aug 9	E-59	<u>Candidate Statements Due</u>	
Aug 11	E-57	<u>Randomized Alphabet Drawing</u> On this date (the first weekday after the close of filing of nomination papers for the office) at 11:00 a.m., the Secretary of State draws the randomized alphabet to determine the order for placing candidates' names on the ballot.	§13112(d)
Aug 11 to Sep 23	E-57 to E-14	<u>Statement of Write-In Candidacy and Nomination Papers</u> During this period, all write-in candidates must file their Statement of Write-in Candidacy and nomination papers with the county elections officials.	§8601
Aug 13	E-55	<u>Certified List of Candidates</u> The last day for the Secretary of State to prepare and send to each county elections official a certified list of candidates showing the name of every person eligible to receive votes within the county at the statewide special election, their addresses, and the party each person represents.	§§11381
Aug 18	E-50	<u>Voter Registration Files to the Secretary of State</u> The last day for county elections official to send the Secretary of State a copy of their voter registration files	§2187(c)&(d)(2)

ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003

of all voters registered prior to August 8, 2003 (E-60).

Sep 8	E-29	<u>Precinct Board Members and Polling Places</u>	§12286
		The last day for the county elections official to appoint the members of the several precinct boards and designate the polling places.	
Sep 8	E-29	<u>Canvass Procedures Available</u>	§15003
		Elections officials shall adopt semifinal official and official canvass procedures to conform to the applicable voting system procedures that have been approved by the Secretary of State. These procedures shall be available for public inspection no later than 29 days before each election.	
Sep 8 to Sep 30	E-29 to E-7	<u>Absent Voter Ballot Application</u>	§§3001, 3003, 10704(a)
		Between these dates, any registered voter may apply to the county elections official for an absent voter's ballot. Applications received before September 8, 2003 (E-29) shall be kept and processed during this application period.	
Sep 22	E-15	<u>Registration Closes</u>	§§2102, 2107
		The last day for any person to register to vote in the statewide special election.	

Note: No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county elections official if any of the following apply:

- (1) The affidavit is postmarked on or before the 15th day prior to the election and received by mail by the county elections official.
- (2) The affidavit is submitted to the Department of Motor Vehicles or accepted by any other public agency designated as a voter registration agency pursuant to the National Voter Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the 15th day prior to the election.

The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) or

**ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003**

(2) on or before the 15th day prior to the election.

Sep 23	E-14	<u>Write-In Candidacy</u> The last day to file as a write-in candidate.	§8601
Sep 23	E-14	<u>Bilingual Precinct Board Members</u> The last day to prepare a list of precincts to which bilingual officers were appointed. A copy of this list shall be made available to the public.	§12303(d)
Sep 27	E-10	<u>Publication Of Tally Center Location</u> Once, on or before this date, the county elections officials shall publish a notice in a newspaper of general circulation within the county specifying the public place to be used as the central tally center for counting the ballots.	§12107
Sep 30	E-7	<u>Absent Voters</u> The last day to file applications for absent voter ballots.	§§3001, 10704
Sep 30	E-7	<u>Computer Program to Secretary of State</u> The last day to verify computer vote count programs and deposit copies thereof with the Secretary of State. The last day to send logic and accuracy test certifications to the Secretary of State.	§§15001
Sep 30	E-7	<u>Computer Processing of Absentee Ballots</u> Counties having the necessary computer capability may begin to process their absent voter ballots on this date. This process may be completed to the point of placing the ballot information on computer tape, but under NO circumstance shall a vote count be made before the polls close at 8 p.m. on October 7, 2003 (E). All other county elections official shall start to process absent voter ballots at 5 p.m. on the day before the election.	§15101(b)
Oct 1-Oct 6	E-6 to E-1	<u>Special Absent Voter - Recalled to Military Service</u> A registered voter recalled to service after October 1, 2003 but before 5 p.m. on October 6, 2003 may appear before the county elections official and obtain from the county elections official an absent voter's ballot which may be voted in the county elections official's office or outside the county elections official's office, on or before the close of the polls and returned as are other	§3110

ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003

voted absent voter ballots.

Oct 1-Oct 6	E-6 to E-1	<p><u>Absentee Ballots - Late Conditions</u> On or between these dates, any voter may apply in writing for an absent voter's ballot if he or she will unexpectedly be unable to go to the polls on election day. The voter may designate any authorized representative to return the voted absent voter's ballot.</p>	§3021
Oct 7	E	<p><u>Election Day</u> On this date, the polls shall be open throughout the state from 7 a.m. to 8 p.m.</p> <p>Voters who have moved from one address to another within the same county and not reregistered may vote a provisional ballot at the polling place for their current (new) address or at a central location. The voter should be able to provide an ID Card or Driver's License with the new address, but if not available, then two other documents must be shown to establish new residence address.</p> <p>The last day county election officials may receive ballots cast by absent voters by mail or in person. Absent voter ballots must be received by 8 p.m. at any polling place in the county or at the office of the elections official.</p>	<p>Ca. Const. Art. II, Sec. 15 (a) §§1000, 14212</p> <p>§14311</p> <p>§§3017, 3020</p>
Nov 4	E+28	<p><u>Official Canvass</u> The last day for the county elections officials to complete the official canvass.</p>	
Nov 11	E+35	<p><u>Statement of Results to Secretary of State</u> By this date, the county elections officials shall send to the Secretary of State by registered mail one complete copy of the returns for the statewide special election.</p>	§15375
Nov 15	E+39	<p><u>Statement of the Vote</u> The last day for the Secretary of State to prepare, certify, and file a statement of the Vote from the compiled returns.</p>	§15501

**ELECTIONS CALENDAR
STATEWIDE SPECIAL ELECTION
October 7, 2003**

Mar 14, 2004

E+159

Supplement to the Statement of Vote

§15502

Last day for the Secretary of State to compile a supplement to the statement of the vote showing the number of votes cast in each county, city, Assembly district, State Senatorial district, Congressional district, and supervisorial district



STATE OF CALIFORNIA
LIEUTENANT GOVERNOR CRUZ M. BUSTAMANTE

Proclamation

Special Election Proclamation

I, CRUZ M. BUSTAMANTE, Lieutenant Governor of the State of California, by the power and authority vested in me by Sections 15 and 17, Article II of the Constitution of the State of California, do hereby proclaim and order that a special statewide election shall be held on the 7th day of October, 2003, to determine whether Gray Davis, Governor of the State of California, shall be recalled, and if the majority vote on the question is to recall, to elect a successor.



IN WITNESS WHEREOF, I hereunto set my hand and have caused the Great Seal of the State of California to be affixed on this 24th day of July, of the Year Two Thousand and Three.

Cruz M. Bustamante

CRUZ M. BUSTAMANTE
Lieutenant Governor of California

ATTEST: *Kevin Shelley*

KEVIN SHELLEY
Secretary of State

State of California

SECRETARY OF STATE

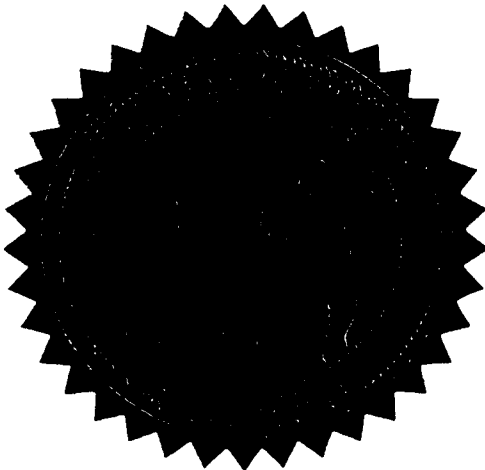
July 15, 2002

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS (02195)

Pursuant to Section 9033 of the Elections Code, I hereby certify that on July 15, 2002, the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the Initiative Constitutional Amendment, CLASSIFICATION BY RACE, ETHNICITY, COLOR OR NATIONAL ORIGIN., has been signed by the requisite number of qualified electors needed to declare the petition sufficient. The CLASSIFICATION BY RACE, ETHNICITY, COLOR OR NATIONAL ORIGIN. INITIATIVE CONSTITUTIONAL AMENDMENT., is, therefore, qualified for the March 2, 2004, Primary Election.

CLASSIFICATION BY RACE, ETHNICITY, COLOR OR NATIONAL ORIGIN. INITIATIVE CONSTITUTIONAL AMENDMENT. Effective January 1, 2005, prohibits state, local governments from using race, ethnicity, color or national origin to classify current or prospective students, contractors, or employees in public education, contracting or employment operations. Does not prohibit classification by sex. Prohibition also covers persons subject to other operations of government unless Legislature finds compelling state interest, authorizes by two-thirds of each house, and Governor approves. "Classifying" defined as separating, sorting, or organizing persons or personal data. Exemptions include: law enforcement descriptions; prisoner and undercover assignments; action taken to maintain federal funding. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would have a major fiscal impact on annual state savings potentially ranging from several million dollars to in excess of \$10 million beginning in 2015.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of California this 15th day of July, 2002.



Bill Jones
BILL JONES
Secretary of State

DIVISIONS:
Archives
Corporate Filings
Elections
Information Technology
Limited Partnership
Management Services
Notary Public
Political Reform
Uniform Commercial Code

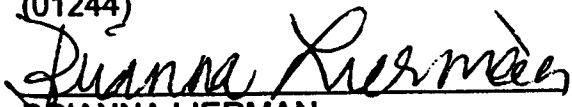


BILL JONES
Secretary of State
State of California

ELECTIONS DIVISION
(916) 657-2166
1500 - 11th STREET
SACRAMENTO, CA 95814
Voter Registration Hotline
1-800-345-VOTE
For Hearing and Speech Impaired
Only
1-800-833-8683
e-mail: comments@ss.ca.gov

November 20, 2001

TO: ALL REGISTRARS OF VOTERS OR COUNTY CLERKS AND PROPONENTS
(01244)

FROM: 
BRIANNA LIERMAN
ELECTIONS ANALYST

SUBJECT: INITIATIVE #933

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**CLASSIFICATION BY RACE, ETHNICITY, COLOR
OR NATIONAL ORIGIN. INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

Kevin Nguyen
P.O. Box 188350
Sacramento, CA 95818

(916) 444-2278

#933
CLASSIFICATION BY RACE, ETHNICITY, COLOR
OR NATIONAL ORIGIN. INITIATIVE CONSTITUTIONAL AMENDMENT.

CIRCULATING AND FILING SCHEDULE

- 1. Minimum number of signatures required: 670,816
California Constitution, Article II, Section 8(b)

- 2. Official Summary Date:..... Tuesday, 11/20/01
Elections Code section (EC§) 336

- 3. Petitions Sections:
 - a. First day Proponent can circulate Sections for
signatures (EC §336) Tuesday, 11/20/01

 - b. Last day Proponent can circulate and file
with the county. All sections are to be filed at the
same time within each county (EC §336, 9030(a)) Friday, 04/19/02

 - c. Last day for county to determine total number of
signatures affixed to petitions and to transmit total
to the Secretary of State (EC §9030(b))..... Wednesday, 05/01/02

 - (If the Proponent files the petition with the county on a date prior to 04/19/02,
the county has eight working days from the filing of the petition to determine the
total number of signatures affixed to the petition and to transmit the total to the
Secretary of State) (EC §9030(b)).

 - d. Secretary of State determines whether the total number
of signatures filed with all county clerks/registrars of
voters meets the minimum number of required signatures,
and notifies the counties Friday, 05/10/02*

 - e. Last day for county to determine total number of qualified
voters who signed the petition, and to transmit certificate
with a blank copy of the petition to the Secretary of State
(EC §9030(d)(e))..... Monday, 06/24/02

*Date varies based on the date of county receipt of verification.

INITIATIVE #933

Circulating and Filing Schedule continued:

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/10/02, the last day is no later than the thirtieth day after the county's receipt of notification). (EC §9030(d)(e)).

f. If the signature count is more than 461,186 or less than 398,297 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 398,297 and 461,186 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)) Friday, 07/05/02*

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (EC §9031(b)(c)). Friday, 08/16/02

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 07/05/02, the last day is no later than the thirtieth working day after the county's receipt of notification) (EC §9031(b)(c)).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (EC §9031(d); 9033)..... Tuesday, 08/20/02*

* Date varies based on receipt of county certification.

IMPORTANT POINTS

- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 123 Cal. App. 3d 825, 177 Cal. Rptr. 621; 63 Ops. Cal. Atty. Gen. 37 (1980).
- Please refer to Elections Code sections 100,101,104,9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq. A brief summary is attached for your reference.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

Enclosures



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
Public: (916) 445-9555

Facsimile: (916) 324-8835
(916) 324-5490

November 20, 2001

FILED
In the office of the Secretary of State
of the State of California

NOV 20 2001

Bill Jones
Secretary of State
1500 - 11th Street, 5th Floor
Sacramento, California 95814

BILL JONES, Secretary of State
By *Bonnie Lierman*
Deputy Secretary of State

RE: Initiative Title and Summary
SUBJECT: CLASSIFICATION BY RACE, ETHNICITY, COLOR OR NATIONAL ORIGIN.
INITIATIVE CONSTITUTIONAL AMENDMENT.
FILE NO: SA2001RF0027

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed our title and summary to the proponent of the above-identified proposed initiative.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of service thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of service.

Sincerely,

Tricia Knight
TRICIA KNIGHT
Initiative Coordinator

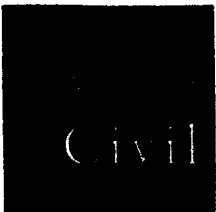
For BILL LOCKYER
Attorney General

TK:cw
Enclosures

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CLASSIFICATION BY RACE, ETHNICITY, COLOR OR NATIONAL ORIGIN.

INITIATIVE CONSTITUTIONAL AMENDMENT. Effective January 1, 2005, prohibits state, local governments from using race, ethnicity, color or national origin to classify current or prospective students, contractors, or employees in public education, contracting or employment operations. Does not prohibit classification by sex. Prohibition also covers persons subject to other operations of government unless Legislature finds compelling state interest, authorizes by two-thirds of each house, and Governor approves. "Classifying" defined as separating, sorting, or organizing persons or personal data. Exemptions include: law enforcement descriptions; prisoner and undercover assignments; action taken to maintain federal funding. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: This measure would have a major fiscal impact of annual state savings potentially ranging from several million dollars to in excess of \$10 million beginning in 2015.



Civil Rights
Coalition

RECEIVED
SEP 28 2001

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

September 27, 2001

Bill Lockyer
Attorney General
Department of Justice
1300 I Street
Sacramento, CA 95814

Dear Attorney General Lockyer:

Please find enclosed a draft initiative petition, which would eliminate racial classifications. This initiative shall be referred to as the Racial Privacy Initiative. The proponent is Kevin Nguyen, Executive Director, P.O. Box 188350, Sacramento CA 95818. It is submitted for title and summary.

Also enclosed, please find the \$200 filing fee.

If you have any questions, please contact Kevin Nguyen, P.O. Box 188350, Sacramento CA 95818, phone 916.444.2278

Sincerely,

Kevin Nguyen
Executive Director

Enclosures

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS
The Attorney General of California has prepared the following title and summary of the chief purposes and points of the proposed measure.

[Insert 500 word Title and Summary Prepared by Attorney General]

To the Honorable Secretary of State:

We the undersigned, registered, qualified voters of California residents of afore-described County (or City and County), hereby propose amendments to Article I of the Constitution of California relating to racial classifications and petition the Secretary of State to submit same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed constitutional amendments read as follows:

Prohibition Against Classifying by Race by State and Other Public Entities
 Section 32 is added to Article I of the California Constitution as follows:

Sec. 32. (a) The state shall not classify any individual by race, ethnicity, color or national origin in the operation of public education, public contracting or public employment.

(b) The state shall not classify any individual by race, ethnicity, color or national origin in the operation of any other state operations, unless the legislature specifically determines that said classification serves a compelling state interest and approves said classification by a 2/3 majority in both houses of the legislature, and said classification is subsequently approved by the governor.

(c) For purposes of this section, "classifying" by race, ethnicity, color or national origin shall be defined as the act of separating, sorting or organizing by race, ethnicity, color or national origin including, but not limited to, inquiring, profiling, or collecting such data on government forms.

(d) For purposes of subsection (a), "individual" refers to current or prospective students, contractors or employees. For purposes of subsection (b), "individual" refers to persons subject to the state operations referred to in subsection (b).

(e) The Department of Fair Employment and Housing (DFEH) shall be exempt from this section with respect to DFEH-conducted classifications in place as of March 5, 2002.

(1) Unless specifically extended by the legislature, this exemption shall expire ten years after the effective date of this measure.

(2) Notwithstanding DFEH's exemption from this section, DFEH shall not impute a race, color, ethnicity or national origin to any individual.

(f) Otherwise lawful classification of medical research subjects and patients shall be exempt from this section.

(g) Nothing in this section shall prevent law enforcement officers, while carrying out their law enforcement duties, from describing particular persons in otherwise lawful ways. Neither the governor, the legislature nor any statewide agency shall require law enforcement officers to maintain records that track individuals on the basis of said classifications, nor shall the governor, the legislature or any statewide agency withhold funding to law enforcement agencies on the basis of the failure to maintain such records.

(h) Otherwise lawful assignment of prisoners and undercover law enforcement officers shall be exempt from this section.

(i) Nothing in this section shall be interpreted as prohibiting action which must be taken to comply with federal law, or establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

(j) Nothing in this section shall be interpreted as invalidating any valid consent decree or court order which is in force as of the effective date of this section.

(k) For the purposes of this section, "state" shall include, but not necessarily be limited to, the state itself, any city, county, city and county, public university system, including the University of California, California State University, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the state.

(l) This section shall become effective January 1, 2005.

(m) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

Assembly Constitutional Amendment No. 11

RESOLUTION CHAPTER 185

Assembly Constitutional Amendment No. 11—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Article XVI A thereto, relating to infrastructure finance.

[Filed with Secretary of State September 18, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

ACA 11, Richman. Infrastructure: finance.

Existing law, commencing on January 10, 2002, requires the Governor to submit to the Legislature a proposed 5-year infrastructure plan. The plan is required to be submitted annually, in conjunction with the Governor's Budget, and to cover a 5-fiscal year period, beginning with the fiscal year that is the same as that covered by the Governor's Budget with which the plan is submitted.

This measure would establish the California Twenty-First Century Infrastructure Investment Fund in the State Treasury. Beginning in the 2006–07 fiscal year, the measure would cause a specified percentage of revenues to be transferred from the General Fund to the infrastructure fund 4 times during the fiscal year. The measure would increase the percentage of revenues to be transferred each year, subject to the rate of increase of total General Fund revenues compared to the prior fiscal year as estimated by the Department of Finance. The measure would require the Department of Finance to prepare an annual plan to expend these funds, unless the Governor directs another state agency to carry out this responsibility.

This measure would require that the funds in the infrastructure fund be allocated by the Legislature for capital outlay purposes, of which 50% would be for acquisition, construction, rehabilitation, modernization, or renovation of state-owned infrastructure and 50% would be for acquisition, construction, rehabilitation, modernization, or renovation of local government infrastructure, excluding school districts and community college districts.

WHEREAS, An investment in California's infrastructure is an investment in California's future because the quality of life in California depends on the quality of our children's education and on the condition of the state's transportation network, water system, parks, natural resources, and other infrastructure; and

(a) "Department of Finance" means the Department of Finance or a successor agency.

(b) "General Fund revenues" excludes transfers from other funds into the General Fund and transfers from the General Fund into other funds.

(c) "Infrastructure fund" means the California Twenty-First Century Infrastructure Investment Fund.

(d) "Made for purposes of the current fiscal year Budget Act as determined by the Department of Finance" means General Fund revenues contained in the Final Budget Summary published by the Department of Finance for the current fiscal year.

SEC. 3. (a) Commencing in the 2006–07 fiscal year, and in every fiscal year thereafter, the Controller shall make the following transfers from the General Fund to the infrastructure fund:

(1) During the 2006–07 fiscal year, a sum equal to 1 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(2) During the 2007–08 fiscal year, a sum equal to 1.3 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(3) During the 2008–09 fiscal year, a sum equal to 1.6 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(4) During the 2009–10 fiscal year, a sum equal to 1.9 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(5) During the 2010–11 fiscal year, a sum equal to 2.2 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(6) During the 2011–12 fiscal year, a sum equal to 2.5 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(7) During the 2012–13 fiscal year, a sum equal to 2.8 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for that fiscal year.

(8) During the 2013–14 fiscal year, and every fiscal year thereafter, a sum equal to 3 percent of the total amount of General Fund revenues as estimated by the Department of Finance for purposes of the Budget Act for the applicable fiscal year.

(b) Notwithstanding subdivision (a), if the total General Fund revenues for a fiscal year are estimated by the Department of Finance to not increase by at least 4 percent, after adjusting for inflation, compared to the revenues for the prior fiscal year, the increase in the percentage

revenues for the prior fiscal year that were used to make debt payments in the prior fiscal year on general obligation bonds of the State and lease-revenue bonds issued by the State Public Works Board.

(g) The annual amount transferred to the infrastructure fund, as required pursuant to subdivision (a), shall be reduced by an amount equal to the sales tax revenue in each fiscal year that is redirected to the Traffic Congestion Relief and Safe School Bus Trust Fund pursuant to Proposition 51 if that measure was approved by the voters in November 2002.

SEC. 4. (a) The annual transfer from the General Fund to the infrastructure fund, as provided for by this article, shall be made over four time periods in the fiscal year as follows:

(1) The first transfer shall be made on August 1, or 30 days after enactment of the budget, whichever is later, and shall be in the amount of 25 percent of the total transfer for the fiscal year based on revenue assumptions made for purposes of the Budget Act, as determined by the Department of Finance.

(2) The second transfer shall be made on November 1, and shall be in the same amount as the first transfer.

(3) The third transfer shall be made on February 1, and the amount shall be the difference between 75 percent of the total required transfer for the current fiscal year, based on the adjusted revenue estimate for the current fiscal year according to the Governor's Budget proposal for the following fiscal year, and the total amount of the first and second transfers.

(4) The fourth transfer shall be made on May 31, and the amount shall be based on the difference between the total required transfer for the current fiscal year based on the adjusted revenue estimate for the current fiscal year according to the Governor's May Revision proposal for the following fiscal year and the total amount previously transferred.

(b) (1) If the updated revenue estimate for the current fiscal year, as contained in the Governor's Budget proposal for the next fiscal year, is more than 5 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act as determined by the Department of Finance, the February 1 transfer shall be suspended until no sooner than May 31.

(2) If the updated revenue estimate for the current fiscal year, as contained in the Governor's May Revision proposal for the next fiscal year, is more than 5 percent below the revenue assumptions made for purposes of the current fiscal year Budget Act as determined by the Department of Finance, the February 1 transfer and the May 31 transfer shall be suspended for that fiscal year. If the February 1 transfer had already been made because revenue estimates at that time did not show

(a) Fifty percent for acquisition, construction, rehabilitation, modernization, or renovation of infrastructure that is owned, or is to be acquired by, the State.

(b) Fifty percent for acquisition, construction, rehabilitation, modernization, or renovation of infrastructure, including, but not limited to, streets, roads, highways, transportation, water, parks, and open space, that is owned, or is to be acquired by, local governments, including cities, counties, a city and county, and special districts, but not school districts or community college districts. The Legislature shall provide by law a method for the annual allocation of these funds to local governments for their use on projects that meet the requirements of this section.

SEC. 6. Neither transfers to, nor allocations from, the infrastructure fund shall in any manner affect the calculations otherwise made pursuant to Section 8 or Section 8.5 of Article XVI.

SEC. 7. For purposes of this article, appropriations from the infrastructure fund pursuant to this article constitute appropriations for qualified capital outlay projects for purposes of Section 9 of Article XIII B.



Exhibit "B"

*Declaration of John Mott-Smith in
Opposition to Application for TRO*



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

August 11, 2003

Joseph D. Rich
Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

RE: Submission Under Section 5 of the Voting Rights Act

Dear Mr. Rich:

Enclosed please find a copy of *Oliver v. State of California, et al.*. We are forwarding this case so that you will have all the information necessary for expedited consideration for pre-clearance on behalf of the four California counties, Monterey, Merced, Yuba, and Kings, which are covered jurisdictions under Section 5 of the Voting Rights Act, and which require pre-clearance of changes in their election procedures.

Please don't hesitate to call if you require any additional information to assist you in the expeditious review of this request. Should you have any questions, please contact me at (916) 657-2166.

Sincerely,

A handwritten signature in black ink, appearing to read "JM" or "John Mott-Smith".

JOHN MOTT-SMITH
Chief, Elections Division

enclosure

Exhibit "C"

*Declaration of John Mott-Smith in
Opposition to Application for TRO*



SECRETARY OF STATE
KEVIN SHELLEY
STATE OF CALIFORNIA

August 13, 2003

Joseph D. Rich
Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Attn: Adrienne Fernandez

RE: Submission Under Section 5 of the Voting Rights Act #2003-2714

Dear Ms. Fernandez:

Enclosed please find a copy of the ballot pamphlet setting forth the text of, and arguments for and against, Proposition 9 at the June 1974 primary election. Although we believe that this proposition has previously been precleared, we are submitting this package in conjunction with our submission seeking preclearance of the recall election in order to expedite that process. We request that you preclear Proposition 9 which was approved by the voters at the June 1974 primary election. We are forwarding this so that you will have all the information necessary for expedited consideration for pre-clearance on behalf of the four California counties, Monterey, Merced, Yuba, and Kings, which are covered jurisdictions under Section 5 of the Voting Rights Act, and which require pre-clearance of changes in their election procedures.

Please don't hesitate to call if you require any additional information to assist you in the expeditious review of this request. Should you have any questions, please contact me at (916) 657-2166.

Sincerely,

JOHN MOTT-SMITH
Chief, Elections Division

enclosure