

**Jesus Angel Cisneros**

[Residence Address Included on Elections Code Section 9001(b) Certificate of Residency, Transmitted Herewith and Incorporated Herein by This Reference]

December 14, 2015

**RECEIVED**

DEC 23 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Ms. Ashley Johansson  
Initiative Coordinator  
Office of the Attorney General  
1300 "I" Street, Suite 125  
Sacramento, CA 95814-2919

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, by this letter I respectfully request that the Attorney General prepare a circulating title and summary of the chief purpose and points of the enclosed proposed statewide initiative entitled "The California Non-Partisan Ballot Act".

Included with this submission are a recommended circulating title and summary, the required signed statements pursuant to California Elections Code sections 9001 and 9608, and the required check in the amount of ~~\$2,000~~ <sup>2,000</sup> BJR

Please direct all inquiries and correspondence regarding this proposed initiative to:

Bradley W. Hertz, Esq.  
The Sutton Law Firm  
22647 Ventura Boulevard, #301  
Los Angeles, CA 91364  
Tel: 818/593-2949  
Fax: 818/593-2948  
Email: [bhertz@campaignlawyers.com](mailto:bhertz@campaignlawyers.com)

Thank you for your time and attention to this matter.

Sincerely,

  
Jesus Angel Cisneros  
Proponent

## **The California Non-Partisan Ballot Act**

The People of the State of California do hereby ordain as follows:

### **Section 1. Title.**

This Act shall be known and may be cited as “The California Non-Partisan Ballot Act” (the “Act”).

### **Section 2. Findings and Declarations.**

The People of the State of California hereby find and declare all of the following:

- (a) It is in the public interest to disallow references to political parties from appearing on ballots and sample ballots to define or describe candidates for partisan state office.
- (b) Amending the State Constitution and statutes as proposed herein will protect the rights of voters to select candidates for state office based on their qualifications and ideas rather than their political party labels.
- (c) The Act does not restrict the right of individuals to join or organize into political parties, nor does it restrict in any way the right of association as it relates to political parties, and as such the Act conforms to the California Court of Appeal ruling in Field v. Bowen (2011) 199 Cal.App.4th 346.
- (d) Nothing in the Act shall restrict political parties’ rights to contribute to, endorse, or otherwise support one or more candidates for state office. Political parties may establish such procedures as they see fit to endorse or support candidates or otherwise participate in the political process, and they may endorse candidates for election to voter-nominated offices at party conventions or by whatever lawful mechanisms they choose, other than at state-conducted elections.
- (e) Political parties may also adopt such rules as they see fit for the selection of party officials (including central committee members, presidential electors, and party officers). This may include restricting participation in elections for party officials to those who disclose a party preference for that party at the time of their registration to vote.

(f) The Act makes no change in current law as it relates to candidates for President of the United States, the United States Senate, or the United States House of Representatives.

(g) The Act makes no change in current law as it relates to presidential primary elections, and as such the Act conforms to the United States Supreme Court ruling in Washington State Grange v. Washington State Republican Party (2008) 552 U.S. 442. All political parties retain the right to restrict access to their presidential primaries to those voters who disclose their party preference for that party at the time of their registration to vote or to open their presidential primaries to those voters who register to vote without disclosing a political party preference.

### **Section 3. Purposes and Intent.**

The People of the State of California hereby declare the following purposes and intent in enacting this Act:

(a) To protect the right of voters to select candidates for state office based on their qualifications and ideas rather than their political party labels.

(b) To remove political party labels from ballots and sample ballots so that such labels will not be used therein to define or describe candidates for partisan state office.

(c) To continue to include all properly qualified candidates on the ballot and sample ballot, but to exclude partisan state candidates' party preferences from appearing next to their names.

(d) To continue to permit all candidates for partisan state office to register with, be active in, and/or maintain a preference for, a political party, but not to be allowed to refer to a political party on the ballot or sample ballot.

(e) To maintain the status quo and not change the law with regard to candidates for President of the United States, the United States Senate, the United States House of Representatives, and political party officials including central committee members, presidential electors, and party officers.

(f) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

**Section 4. The California Non-Partisan Ballot Act shall be codified by amending Article II of the California State Constitution and amending the California Elections Code as follows** (language to be added is signified by italicized text, and language to be deleted is signified by strikeout text):

**Part 1. Article II, Sections 5 and 6 of the California Constitution are amended to read:**

SEC. 5. (a) A voter-nomination primary election shall be conducted to select the candidates for congressional and state elective offices in California. All voters may vote at a voter-nominated primary election for any candidate for congressional and state elective office without regard to the political party preference disclosed by the *congressional* candidate or the voter, provided that the voter is otherwise qualified to vote for candidates for the office in question. The candidates who are the top two vote-getters at a voter-nominated primary election for a congressional or state elective office shall, regardless of party preference, compete in the ensuing general election.

(b) Except as otherwise provided by Section 6, a candidate for a congressional ~~or state~~ elective office may have his or her political party preference, or lack of political party preference, indicated upon the ballot for the office in the manner provided by statute. *A candidate for state elective office shall not have his or her political party preference, or lack of political party preference, indicated upon the ballot or sample ballot for the office in any manner.* A political party or party central committee shall not nominate a candidate for any congressional or state elective office at the voter-nominated primary.

This subdivision shall not be interpreted to prohibit a political party or party central committee from endorsing, supporting, or opposing any candidate for a congressional or state elective office. *This subdivision shall not be interpreted to prohibit a candidate from stating his or her political party preference, or lack of political party preference, in any other forum outside of the ballot and sample ballot, subject to other applicable law.*

A political party or party central committee shall not have the right to have its preferred candidate participate in the general election for a voter-nominated office other than a candidate who is one of the two highest vote-getters at the primary election, as provided in subdivision (a).

(c) The Legislature shall provide for partisan elections for presidential candidates, and political party and party central committees, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized

candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.

(d) A political party that participated in a primary election for a partisan office pursuant to subdivision (c) has the right to participate in the general election for that office and shall not be denied the ability to place on the general election ballot the candidate who received, at the primary election, the highest vote among that party's candidates.

SEC. 6. (a) All judicial, school, county, and city offices, including the Superintendent of Public Instruction, shall be nonpartisan.

(b) A political party or party central committee shall not nominate a candidate for nonpartisan office, and the candidate's party preference shall not be included on the ballot for the nonpartisan office.

**Part 2. Section 359.5 of the Elections Code is amended to read:**

(a) "Voter-nominated office" means *the following* a congressional or state elective offices ~~for which a candidate may choose to have his or her party preference or lack of party preference indicated upon the ballot. A political party or party central committee shall not nominate a candidate at a state-conducted primary election for a voter-nominated office. The primary conducted for a voter-nominated office does not serve to determine the nominees of a political party but serves to winnow the candidates for the general election to the candidates receiving the highest or second highest number of votes cast at the primary election. The following offices are voter-nominated offices:~~

- (1) Governor.
- (2) Lieutenant Governor.
- (3) Secretary of State.
- (4) Controller.
- (5) Treasurer.
- (6) Attorney General.
- (7) Insurance Commissioner.
- (8) Member of the State Board of Equalization.
- (9) United States Senator.
- (10) Member of the United States House of Representatives.
- (11) State Senator.
- (12) Member of the Assembly.

*(b) A political party or party central committee shall not nominate a candidate at a state-conducted primary election for a voter-nominated office. The primary election conducted for a voter-nominated office does not serve to determine the nominees of a political party but serves to winnow the candidates for the general election to the candidates receiving the highest or second highest number of votes cast at the primary election.*

~~(b)~~(c) This section does not prohibit a political party or party central committee from endorsing, supporting, or opposing a candidate for an office listed in subdivision (a).

**Part 3. Section 8002 of the Elections Code is amended to read:**

If a candidate is a candidate for a nonpartisan office, all reference to party affiliation shall be omitted on all forms required to be filed. *If a candidate is a candidate for a partisan state office, any reference to partisan affiliation by any such candidate shall not be included or printed on the ballot or sample ballot.*

**Part 4. Section 8002.5 of the Elections Code is amended to read:**

(a) A candidate for a voter-nominated *Presidential, United States Senate, or United States House of Representatives* office shall indicate one of the following upon his or her declaration of candidacy, which shall be consistent with what appears on the candidate's most recent affidavit of registration:

(1) "Party Preference: \_\_\_\_\_ (insert the name of the qualified political party as disclosed upon your affidavit of registration)."

(2) "Party Preference: None (if you have declined to disclose a preference for a qualified political party upon your affidavit of registration)."

(b) The selection made by a candidate *for federal office* pursuant to subdivision (a) shall appear on the primary and general election ballot in conjunction with his or her name, and shall not be changed between the primary and general election. *A candidate for partisan state office may indicate a party preference or no party preference ("None") upon his or her declaration of candidacy, which shall be consistent with what appears on the candidate's most recent affidavit of registration, but any reference to partisan affiliation by any such candidate shall not be included or printed on the ballot or sample ballot.*

(c) Regardless of the *political* party preference, or lack of *political* party preference, of the

candidate or the voter, any qualified voter may vote for any candidate for a voter-nominated office if the voter is otherwise entitled to vote for candidates for the office to be filled. Nothing in Section 2151, 3006, 3007.5, 3205, or 13102 shall be construed to limit the ability of a voter to cast a primary election ballot for any candidate for a voter-nominated office, regardless of the *political* party preference, or lack of *political* party preference, designated by the candidate ~~for inclusion upon the ballot~~ pursuant to this section, provided that the voter is otherwise qualified to cast a ballot for the office at issue.

(d) A candidate designating a *political* party preference pursuant to subdivision (a) shall not be deemed to be the official nominee of the *political* party designated as preferred by the candidate. A candidate's designation of *political* party preference shall not be construed as an endorsement of that candidate by the *political* party designated. The party preference designated by the candidate ~~is shown for the information of the voters only and~~ may in no way limit the options available to voters.

(e) All references to *political* party preference or affiliation shall be omitted from all forms required to be filed by a voter-nominated candidate pursuant to this division in the same manner that such references are omitted from forms required to be filed by nonpartisan candidates pursuant to Section 8002, except that the declaration of candidacy required by Section 8040 shall include space for the candidate to list the party preference disclosed upon the candidate's most recent affidavit of registration, in accordance with subdivision (a). *A candidate for partisan state office may indicate a party preference or no party preference ("None") upon his or her declaration of candidacy, which shall be consistent with what appears on the candidate's most recent affidavit of registration, but any reference to partisan affiliation by any such candidate shall not be included or printed on the ballot or sample ballot.*

**Part 5. Section 8040 of the Elections Code is amended to read:**

(a) The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a candidate for nomination to the office of \_\_\_\_\_  
District Number \_\_\_\_\_ to be voted for at the primary election to be held \_\_\_\_\_,  
20\_\_\_\_, and declare the following to be true:

My name is: \_\_\_\_\_

I want my name and occupational designation to appear on the ballot as follows:

\_\_\_\_\_

Addresses:

Residence \_\_\_\_\_

Business \_\_\_\_\_

Mailing \_\_\_\_\_

Telephone numbers: Day \_\_\_\_\_ Evening \_\_\_\_\_

Web site: \_\_\_\_\_

I meet the statutory and constitutional qualifications for this office (including, but not limited to, citizenship, residency, and party preference, if required).

I am at present an incumbent of the following public office (if any) \_\_\_\_\_.

If nominated, I will accept the nomination and not withdraw.

\_\_\_\_\_  
Signature of candidate

A candidate for voter-nominated *federal* office shall, *and a candidate for partisan state office may*, also complete all of the following:

(1) I hereby certify that:

(a) At the time of presentation of this declaration, as shown by my current affidavit of registration, I have disclosed the following political party preference, if any:

\_\_\_\_\_

(b) My complete voter registration and party affiliation/preference history, from [10 years prior to current year] through the date of signing this document, is as follows:



Party Registration

County

Timeframe (by year)

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(2) Pursuant to Section 8002.5 of the Elections Code, select one of the following:

\_\_\_\_\_ Party Preference: \_\_\_\_\_ (insert the name of the qualified political party as disclosed upon your affidavit of registration).

\_\_\_\_\_ Party Preference: None (if you have declined to disclose a preference for a qualified political party upon your affidavit of registration).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of candidate

State of California            )  
County of                        ) ss.  
  )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public (or other official)

Examined and certified by me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
County Elections Official

**WARNING:** Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under the provisions of the Elections Code Section 18202. *A candidate for partisan state office may indicate a party preference or no party preference ("None") upon his or her declaration of candidacy, which shall be consistent with what appears on the candidate's most recent affidavit of registration, but any reference to partisan affiliation by any such candidate shall not be included or printed on the ballot or sample ballot.*

(b) At the discretion of the elections official, a candidate for a judicial office, or a candidate for any office whose voter registration information is confidential under Section 2166, 2166.5,

or 2166.7, may withhold his or her residence address from the declaration of candidacy. If a candidate does not state his or her residence address on the declaration of candidacy, the elections official shall verify whether the candidate's address is within the appropriate political subdivision and add the notation "verified" where appropriate on the declaration.

**Part 6. Section 9083.5 of the Elections Code is amended to read:**

(a) If a candidate for nomination or election to a partisan office will appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the election procedure for such offices. The explanation shall read substantially similar to the following:

**PARTY-NOMINATED/PARTISAN OFFICES**

Under the California Constitution, political parties may formally nominate candidates for *the party-nominated/partisan offices of President of the United States* at the primary election. A candidate so nominated will then represent that party as its official candidate for the office in question at the ensuing general election and the ballot will reflect an official designation to that effect. The top votegetter for each party at the primary election is entitled to participate in the general election. Parties also elect officers of official party committees *and political party central committee members* at a partisan primary.

No voter may vote in the primary election of any political party other than the party he or she has disclosed a preference for upon registering to vote. However, a political party may authorize a person who has declined to disclose a party preference to vote in that party's primary election.

(b) If any candidate for nomination or election to a voter-nominated office will appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the election procedure for such offices. The explanation shall read substantially similar to the following:

**VOTER-NOMINATED OFFICES**

Under the California Constitution, political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election. A candidate nominated for a voter-nominated office at the primary election is the nominee of the people and not the official nominee of any party at the following general election. A candidate for nomination or election to *a the voter-nominated federal office of United State Senate or United States House of Representatives* shall have his or her party preference, or lack of party preference, reflected on the primary and general election ballot, but the party preference designation is selected solely by the candidate and is shown for the information of the voters only. It does not constitute or

imply an endorsement of the candidate by the party designated, or affiliation between the party and candidate, and no candidate nominated by the qualified voters for any voter-nominated office shall be deemed to be the officially nominated candidate of any political party. ~~The parties may list the candidates for voter-nominated offices who have received the official endorsement of the party in the sample ballot.~~

*A candidate for partisan state office shall not have his or her party preference, or lack of party preference, reflected on the primary or general election ballot or sample ballot.*

All voters may vote for any candidate for a voter-nominated office, provided they meet the other qualifications required to vote for that office. The top two votegetters at the primary election advance to the general election for the voter-nominated office, *regardless of party affiliation even if both candidates have specified the same party preference designation*. No party is entitled to have a candidate *who has declared a preference for that party with its party preference designation* participate in the general election unless such candidate is one of the two highest vote-getters at the primary election.

(c) If any candidate for nomination or election to a nonpartisan office, other than judicial office, shall appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the election procedure for such offices. The explanation shall read substantially similar to the following:

#### **NONPARTISAN OFFICES**

Under the California Constitution, political parties are not entitled to nominate candidates for nonpartisan offices at the primary election, and a candidate nominated for a nonpartisan office at the primary election is not the official nominee of any party for the office in question at the ensuing general election. A candidate for nomination or election to a nonpartisan office *is not permitted to may NOT* designate his or her party preference, or lack of party preference, on the primary and general election ballot *or sample ballot*. The top two vote-getters at the primary election advance to the general election for the nonpartisan office.

(d) Posters or other printed materials containing the notices specified in subdivisions (a) to (c), inclusive, shall be included in the precinct supplies pursuant to Section 14105.

#### **Part 7. Section 13105 of the Elections Code is amended to read:**

(a) In the case of a candidate for a voter-nominated office in a primary election, a general election, or a special election to fill a vacancy in the office of United States Senator; *or Member of the United States House of Representatives, State Senator, or Member of the Assembly*, immediately to the right of and on the same line as the name of the candidate, or

immediately below the name if there is not sufficient space to the right of the name, there shall be identified, as specified by the Secretary of State, the designation made by the candidate pursuant to Section 8002.5. The identification shall be in substantially the following form:

(1) In the case of a candidate who designated a political party preference pursuant to Section 8002.5, "Party Preference: \_\_\_\_\_."

(2) In the case of a candidate who did not state a preference for a political party pursuant to Section 8002.5, "Party Preference: None."

*(b) In the case of a candidate for a voter-nominated office in a primary election, a general election, or a special election to fill a vacancy, for the office of Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Insurance Commissioner, Member of the Board of Equalization, State Senator, or Member of the Assembly, there shall not be any identification or other information in the ballot or sample ballot related to the candidate's political party preference, or lack of political party preference, designated pursuant to Section 8002.5.*

*(c) In the case of candidates for President and Vice President, the name of the party shall appear to the right of and equidistant from the pair of names of these candidates and on the same line as the name of the candidate for President, or immediately below the name of the vice presidential candidate if there is not sufficient space to the right of the name.*

~~(c)~~(d) If for a general election any candidate for President of the United States or Vice President of the United States has received the nomination of any additional party or parties, the name(s) shall be printed to the right of the name of the candidate's own party. Party names of a candidate shall be separated by commas. If a candidate has qualified for the ballot by virtue of an independent nomination, the word "Independent" shall be printed instead of the name of a political party in accordance with the above rules.

### **Section 5. Liberal Construction.**

This Act is an exercise of the public power of the People of the State of California for the protection of their health, safety, and welfare, and shall be liberally construed to effectuate its purpose.

### **Section 6. Conflicting Measures.**

This Act is intended to be comprehensive. It is the intent of the People of the State of California that in the event this Act and one or more measures relating to the same subject shall

appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

### **Section 7. Proponent Accountability.**

The People of the State of California hereby declare that the proponent of this Act should be held civilly liable in the event this Act is struck down, after passage, in whole or in part, by a court of law for being constitutionally or statutorily impermissible. Such a constitutionally or statutorily impermissible initiative is a misuse of taxpayer funds and electoral resources and the Act's proponent, as drafter of the Act, must be held accountable for such an occurrence.

In the event this Act, after passage, is struck down in a court of law, in whole or in part, as unconstitutional or statutorily invalid, and all avenues for appeal have been exhausted, the proponent shall pay a civil penalty of \$10,000 to General Fund of the State of California for failure to draft and sponsor a wholly constitutionally or statutorily permissible initiative law but shall have no other liability to any person or entity with respect to, related to, or arising from the Act. No party or entity may waive this civil penalty.

### **Section 8. Amendment and Repeal.**

This Act may be amended to further its purposes by statute passed by two-thirds (2/3) vote of the Legislature and signed by the Governor.

### **Section 9. Severability.**

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

### **Section 10. Legal Defense.**

The People of the State of California desire that the Act, if approved by the voters, and thereafter challenged in court, be defended by the State of California. The People of the State

of California, by enacting this Act, hereby declare that the proponent of this Act have a direct and personal stake in defending this Act from constitutional or statutory challenges to the Act's validity. In the event the Attorney General fails to defend this Act, or the Attorney General fails to appeal an adverse judgment against the constitutionality or statutory permissibility of this Act, in whole or in part, in any court of law, the Act's proponent shall be entitled to assert its direct and personal stake by defending the Act's validity in any court of law and shall be empowered by the citizens through this Act to act as agents of the citizens fo the State of California subject to the following conditions: (1) the proponent shall not be considered an "at-will" employee of the State of California, but the Legislature shall have the authority to remove the proponent from their agency role by a majority vote of each house of the Legislature when "good cause" exists to do so, as the term is defined by California case law; (2) The proponent shall take the Oath of Office under California Constitution, Article XX, section 3 as an employee of the State of California; (3) The proponent shall be subject to all fiduciary, ethical, and legal duties prescribed by law; and (4) The proponent shall be indemnified by the State of California for only reasonable expenses and other losses incurred by the proponent, as agent, in defending the validity of the challenged Act. The rate of indemnification shall be no more than the amount it would cost the State to perform the defense itself.

**Section 11. Effective date.**

Except as otherwise provided herein, this Act shall become effective the day after its approval by voters.