

TO:

William F Rousseau, Registrar of Voters
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Bruce D. Goldstein, County Counsel
575 Administration Dr # 150A Santa Rosa CA 95403-2881

DATE: November 28, 2018

RE: Demand to Not Certify Elections Due to Offenses Against the Elective Franchise

We are extremely disappointed that you did not respond to, much less heed, our notices of March 19, 2018 and August 6, 2018 regarding conforming school measure ballots to the mandatory requirements of the Elections Code and the Education Code.

Non-Conforming Ballot Statements

By not conforming the ballot statements to the law, you have permitted the school and college districts (and other taxing agencies) to deceive the voters about the nature of the underlying measure. When the law is ignored, the measure itself, as you well know, is never referenced in the ballot statement. That is by design. Elections Code 13119(a), if applied as written, vanquishes that deception. In addition, the printed full text of the measure is separated from the sample ballot in the voter information guide by pages and pages of material and advertisements resulting in barely one in twenty voters recognizing that they are voting, not on a marketing question, but on a contractual obligation specified in the text of the measure.

The purpose of the legislature's mandatory requirements are to improve disclosure and end deception. Both of these are substantive and not merely procedural or directory in nature.

The legislature has determined that your printing and circulation of non-conforming ballot statements is an offense against the elective franchise and subject to criminal sanctions.

The following measures appear to or are likely to exceed the constitutional threshold for passage. Each ballot statement contains one or more points of non-conformance.

Measure H (Prop 39 bond) 56.03% (Passing)

To improve the quality of education; repair/replace leaky roofs; upgrade inadequate electrical systems; replace deteriorating plumbing and sewer systems; and modernize, construct classrooms, restrooms and school facilities; shall Cloverdale Unified School District issue \$46,000,000 of bonds at legal rates, generating on average \$2,700,000 annually as long as bonds are outstanding at a rate of approximately 6 cents per \$100 assessed value, with annual audits, independent citizens' oversight, No money for salaries and all money for local schools?

Non-conforming offenses for this ballot statement include:

- uses argumentative language - ELC 13119(c)[4]
- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- no duration of the tax to be levied - ELC 13119(b)[3]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- omission of maximum rate of interest - EDC 15122[3]
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure I (Prop 39 bond) 63.35% (Passing)

To repair and modernize outdated classrooms and buildings, replace aging

portables, upgrade infrastructure, construct new educational facilities, and improve access to technology, shall Shoreline Unified School District issue \$19.5 million in bonds at legal interest rates, with projected tax rates of 3.9¢ per \$100 of taxable value while bonds are outstanding (generating on average approximately \$1.45 million annually for issued bonds), and requiring citizens' oversight, annual audits and all funds spent to benefit Shoreline students and schools?

Non-conforming offenses for this ballot statement include:

- uses argumentative language - ELC 13119(c)[4]
- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- no duration of the tax to be levied - ELC 13119(b)[3]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- omission of maximum rate of interest - EDC 15122[3]

Measure J (Prop 39 bond) 66.46% (Passing)

To improve the quality of education; replace outdated heating and ventilation systems; repair or replace leaky roofs; and modernize outdated classrooms, restrooms and school facilities; shall Monte Rio Union Elementary School District issue \$3,300,000 of bonds at legal rates, generating on average \$234,000 annually for issued bonds through maturity from levies of approximately \$0.03 per \$100 assessed value, with annual audits, independent citizens' oversight committee, no money for salaries and all money for local schools?

Non-conforming offenses for this ballot statement include:

- uses argumentative language - ELC 13119(c)[4]
- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- omission of maximum rate of interest - EDC 15122[3]
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure K (Prop 39 bond) 56.42% (Passing)

To improve the quality of education; modernize and renovate classrooms, restrooms and school facilities; improve student access to computers and modern technology; and make health, safety and handicapped accessibility improvements; shall Oak Grove Union School District issue \$9,500,000 of bonds at legal interest rates, raising an average \$556,000 annually as long as bonds are outstanding, at a rate of 3 cents per \$100 assessed value, have an independent citizens' oversight committee with no money for administrative salaries?

Non-conforming offenses for this ballot statement include:

- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]
- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- no duration of the tax to be levied - ELC 13119(b)[3]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC

13119(a)

- omission of maximum rate of interest - EDC 15122[3]

Measure L (Prop 39 bond) 59.30% (Passing)

To improve the quality of education; repair and replace leaky roofs; modernize outdated classrooms, restrooms and school facilities; and improve student access to computers and modern technology; shall Old Adobe Union School District issue \$38,500,000 of bonds at legal rates, generating on average \$2,200,000 annually as long as bonds are outstanding at a rate of approximately 3 cents per \$100 assessed value, with annual audits, independent citizen's oversight, no money for salaries and all money staying local?

Non-conforming offenses for this ballot statement include:

- uses argumentative language - ELC 13119(c)[4]
- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- no duration of the tax to be levied - ELC 13119(b)[3]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- omission of maximum rate of interest - EDC 15122[3]
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure M (transactions and use tax) (Uncertain)

To improve and protect Sonoma County's regional and neighborhood parks; safeguard water supplies, streams, rivers; reduce future wildfire risk; preserve fish and wildlife habitat; conserve natural areas for future generations; support community health and expand walking, hiking, and biking trails; shall Sonoma County establish a one-eighth cent special transaction and use tax (sales tax) countywide for a ten-year period, providing approximately \$11.5 million annually, with citizens' oversight and annual audits?

Non-conforming offenses for this ballot statement include:

- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)

Measure N (Prop 46 bond) (Uncertain)

HOUSING RECOVERY BOND To aid recovery and provide affordable housing for low- and middle-income families, veterans, seniors, disabled, and other vulnerable populations, provide supportive housing for the homeless; and help low- and middle-income households purchase homes in their communities, shall the City of Santa Rosa's measure to issue \$124 million in bonds, levying approximately \$8.6 million annually at approximately \$29 per \$100,000 of assessed value through final maturity, with oversight and audits, be adopted?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)

- use of title to create prejudice for the measure - ELC 13119(c)[4]
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure O (transactions and use tax) (Uncertain)

The City Of Santa Rosa Vital City Services Measure: To provide temporary funding to recover from the October 2017 fires and preserve city services including maintaining 9-1-1 emergency response times and neighborhood police patrols; repairing potholes, streets and sidewalks; rebuilding firefighting infrastructure and fire prevention; shall the City of Santa Rosa enact a one-quarter cent sales tax for six years only, generating approximately \$9 million annually, for unrestricted general fund purposes, subject to annual audits, with all revenue staying in Santa Rosa?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- use of title to create prejudice for the measure - ELC 13119(c)[4]

Measure S (transient occupancy tax) (Uncertain)

To provide funding for infrastructure and general City services including, but not limited to, police, fire, emergency preparedness, streets, parks, open space, and recreation, plus affordable/workforce housing shall City of Sonoma increase the ongoing transient occupancy tax (hotel tax) rate by 2% on January 1, 2019, and authorize an additional 1% increase by January 1, 2024 (estimated \$1,125,000 annually all funds used locally), and increase the City's appropriations limit for Fiscal Years 2018/19-2021/22 by the amount of increased tax?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- word count of 76 exceeds statutory limit - EDC 5322/ELC 13247

Measure T (parcel tax) (Uncertain)

To continue to provide fire and emergency services, shall Glen Ellen Fire Protection District Ordinance No. 2018/2019-01, authorizing the District to levy a special tax based on use codes shown on Attachment "A" of the Ordinance of \$200.00 for residential properties; \$100.00 for agricultural land; and \$0.10 per square foot for commercial properties, raising approximately \$387,000 annually until repealed; and increasing the District's appropriations limit to permit spending of the revenue raised by the special tax, be approved?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure U (parcel tax) (Uncertain)

To continue to provide fire and emergency services, shall Monte Rio Fire Protection District Ordinance No. 18/19-01 authorizing a special tax based on use codes shown on Exhibit A of the Ordinance of \$200.00 for residential properties, \$50.00 for each campsite, \$400.00 for commercial properties, and \$100.00 plus \$1.00 per acre for timberland, raising approximately \$500,000.00 annually until repealed; and increasing the District's appropriations to permit spending of the revenue raised by the special tax, be adopted?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Measure W (parcel tax) (Uncertain)

To prevent fire station closures, institute new ambulance service, hire and retain full-time firefighters, shall Rancho Adobe Fire Protection District Ordinance No. 2018-02 be approved authorizing the District to repeal the existing parcel tax and impose and levy a special tax for an indefinite period at an annual rate of \$300.00 per assessor's parcel number (\$0.82/day) providing \$2.1 million annually, with a maximum 3% annual adjustment for inflation, with an annual audit demonstrating how all revenue was spent?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)

Measure X (parcel tax) (Uncertain)

To continue to provide fire and emergency services, shall Schell Vista Fire Protection District Ordinance No. 2018/2019-01, authorizing the District to levy a special tax based on use codes shown on Exhibit "A" at a maximum rate of \$200.00 for residential properties, \$0.14 per square foot for commercial properties, and \$100.00 for other parcels, raising approximately \$950,000.00 annually until repealed; and increasing the District's appropriations limit to permit spending of the revenue raised by the special tax, be adopted?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]
- word count of 76 exceeds statutory limit - EDC 5322/ELC 13247

Measure Y (parcel tax) (Uncertain)

To continue to provide fire and emergency services, shall Valley of the Moon Fire Protection District Ordinance No. 2018/2019-01, authorizing the District to levy a special tax based on use codes shown on Attachment "A" of the Ordinance of \$200.00 for residential properties; \$100.00 for agricultural land; and \$0.10 per square foot for commercial properties, raising approximately \$1,690,000.00 annually until repealed; and increasing the District's appropriations limit to permit spending of the revenue raised by the special tax, be adopted?

Non-conforming offenses for this ballot statement include:

- benefits language to create prejudice for the measure - ELC 13119(c)[4]
- not in the form "Shall the measure (stating the nature thereof) be adopted?" - ELC 13119(a)
- objectively false or deceptive statement in synopsis - ELC 13119(c)[1]

Failure of Measures to Qualify Under the Requirements of Proposition 39

Beyond your willful failure to conform the ballot statements to the statutory requirements, you have failed to qualify the Proposition 39 measures themselves with respect to the constitutional requirements that the measures claim to avail themselves of, to wit:

- 1) prohibit the use of bond proceeds for any purpose, including salaries and operating costs, other than the construction, reconstruction, rehabilitation, and replacement of school facilities [Art. XIII A, Section 1(b)(3)(A)], and
- 2) present to the voters, before they vote, a list of the specific school facility projects to be funded by the proceeds. [Art. XIII A, Section 1(b)(3)(B)]

Each and every one of the measures contains language specifically intended to avoid the limitations as to the authorized uses of the bond proceeds.

Each and every one of the measures contains language specifically intended to expend bond proceeds on purposes other than construction of school facilities. Among the unauthorized purposes, the measures explicitly purport to authorize expenditures for administration and operating costs, notwithstanding the explicit prohibition of Proposition 39.

Each and every one of the measures contains language specifically intended to expand the project list to anything and everything under the sun, all to be determined at a later date.

Your failure to qualify Proposition 39 measures appearing on the ballot is, similarly, an offense against the elective franchise.

Impartial Analysis

The allegedly impartial analysis of measures in which county counsel is required to present independent, impartial legal opinions, is merely a regurgitation, often using direct quotations, of language from the measure itself or from the tax rate statement.

A reading of the analysis provides the voting public with no insight that is not already in the other materials in the voter information guide. The highlight of the analysis appears to be that "Yes" means "Yes" and "No" means "No." Woe to those without a top-notch public education who might be confused.

Moreover, county counsel fails to address the requirements of the Elections Code and, for school bond measures, the Education Code with respect to the ballot statement. County counsel also fails to address the language that purports to override the qualification restrictions with respect to Proposition 39 measures.

The effect of a wholly uncritical opinion is that those voters who read the Impartial Analysis are misled by a putatively authoritative source.

Conclusion

By allowing proponents to avoid mandatory disclosure requirements, no one can know, with any degree of certainty, what the will of the voters might have been had they been presented with an honest ballot containing all mandatory disclosures, containing no false or misleading statements, and containing no argumentative or prejudicial language.

As one state supreme court has held:

No one can say with any certainty what the vote of the electorate would have been if the voting public had been given the whole truth, as mandated by the statute, and had been told "the chief purpose of the measure."

Those who object to forced taxation through the fraudulent and unlawful ballot statements and measures have been injured due to your foregoing willful failures to follow the law. The only adequate remedy for this total contempt and disregard of the laws enacted to guarantee a fair and impartial election process is that you not certify the elections identified above.

Sincerely,

Richard Michael
California School Bonds Clearinghouse

Alex Aliferis
Former Executive Director of Contra Costa Taxpayers Association

Bruce Boyer
Candidate for Sheriff, Ventura County

Bernadette Chenard-Hsing
Activist

Fred H. Crane
Taxpayer

Linda Davis
Advocate for Honest School Bonds

John A. Davison
Voting and Taxpayers Advocate

Alison Herson
Taxpayer in Allan Hancock College Joint Community College District

Dan Hilker
Taxpayer in Allan Hancock College Joint Community College District

Sandra Kallander
Politics Reduction Activist and Voter

Michael R. Kupperberg
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David E. Kenney, Esq.

Peter Loeb
Former Mayor, Pacifica, CA

Savina Q. Low
Taxpayer

Douglas Mills
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Stephen C Petzold
The Center for Truth in School Bond Measures ID 1408280

Miyo Prassas
Hermosa Beach Community Advocate

Michael Robertson
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Honor "Mimi" Robson
Libertarian Party of California Chair

Sally Smith
Taxpayer in San Diego Unified School District

Ludd A. Trozpek
California resident and citizen

Dawn Urbanek
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