

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Tani G. Cantil-Sakauye Courthouse, Department 3A

JUDICIAL OFFICER: HONORABLE JENNIFER K. ROCKWELL

Courtroom Clerk: S. Paul
Bailiff: Deputy McGrath

CSR: Lydia Zinn #9223

26WM000193

August 6, 2026
2:30 PM

CALIFORNIANS FOR VOTER ID, YES ON 39, et al.

**vs
WEBER**

MINUTES

APPEARANCES:

Petitioner Californians for Voter ID, Yes on 39, a primarily formed ballot measure committee represented by Michael Columbo via virtual conference.

Petitioner Donald Discostanzo, a registered voter of the State of California represented by Michael Columbo via virtual conference.

Respondent Shirley N. Weber, Ph.D., in her official capacity as Secretary of state of the State of California represented by SABRINA T. MCGRAW via virtual conference.

Real Party in Interest Rob Bonta, in his official capacity as Attorney General of the State of California represented by SABRINA T. MCGRAW via virtual conference.

Real Party in Interest Louis Butera, in his official capacity as the California State Printer (Office of State Publishing, Department of General Services) represented by SABRINA T. MCGRAW via virtual conference.

NATURE OF PROCEEDINGS: Hearing on Petition for Writ of Mandate

The above-entitled matter came before this Court this date with the above-named parties present.

RULING

The following shall constitute the Court's ruling on the above matter, that came before Department 3A, on Thursday, August 6, 2026, at 2:30 p.m.

Introduction

This is a challenge to the ballot title, summary, and label certified by the Attorney General for Proposition 39, an initiative measure on the November 3, 2026, statewide general election ballot. Petitioners contend that the ballot title, summary, and label violate Elections Code section 9051 because they are "false, misleading, or inconsistent with the requirements of" the Elections Code. Petitioners also allege that the Attorney General failed to discharge a mandatory duty to give a true and impartial statement of the measure's purpose under Elections Code section 9051.

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Because the certified ballot title, summary, and label for Proposition 39 accurately describe the effect of the measure and reflect a reasonable exercise of the Attorney General's discretion in preparing these items under Elections Code 9051, the Petition will be denied. (*Becerra v. Superior Court* (2017) 19 Cal.App.5th 967, 976 [Attorney General afforded "considerable latitude" in certifying ballot materials].)

The Court notes that Petitioners' Request for Judicial Notice did not include the referenced attachments. However, the documents of which Petitioners request judicial notice, which are official documents and records of the Attorney General's Office and the Office of the Secretary of State, are attached to the Petition. As there was no objection to the Court's taking judicial notice of these materials, Petitioners' request for judicial notice of the Petition's Exhibits A through H is granted. (Evid. Code, § 452, subd. (c).)

Standing

As an initial matter, the Court finds that at minimum, Petitioner Donald DiCostanzo has asserted sufficient interest in the litigation to have standing. The Court finds it has jurisdiction to hear this matter.

Background

Proposition 39 is an initiative measure that would amend the State constitution to require voters to provide government-issued identifying information when casting a ballot and in order for their ballots to be counted. (Petition, Esh. B [Initiative text].) The principal provisions of the measure, Section 3.1, subdivisions (a) and (b), provide as follows:

- (a) The Secretary of State, and county elections officials, shall each have the duty to maintain accurate voter registration lists, shall use best efforts to verify citizenship attestations using government data, and shall annually report what percentage of each county's voter rolls have been citizenship-verified.
- (b) Each time a voter casts a ballot in person in any election in the State, the voter shall present a government-issued identification, or if voting by mail, the voter shall provide the last four digits of a unique identifying number from government-issued identification that matches the one designated by the voter for their voter registration. The type of identification designated by each voter must be indicated in their voter registration record, noted on the mail ballot envelope provided to them, and available to them on request by phone or electronically. Election officials shall only count a regular or provisional ballot after verifying the identity of the person voting pursuant to the requirements of this section, and verifying that the person has cast only one ballot in the election. Government-issued identification means documentation that allows conclusive verification of the voter's identity. Upon request by an eligible voter, the state shall provide, at no charge, a voter ID card for use in casting a ballot.

(Pet. Exh. B.)

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On July 3, 2026, the Attorney General certified the ballot title, summary, and label for Proposition 39. (Pet. ¶ 17, Exh. A.)

Both the ballot label and the ballot title begin with the following text, capitalized and in bold:

**PROHIBITS CITIZENS FROM VOTING UNLESS THEY PRESENT
GOVERNMENT-ISSUED IDENTIFICATION.**

(Pet. Exh. B.)

On July 28, 2026, Petitioners filed this action as a priority election matter pursuant to Elections Code, section 13314. Petitioners allege that the certified ballot label, title, and summary violate the requirements of Elections Code section 9051 because they are false or misleading and fail to give a true and impartial statement of the measure’s purpose. (Pet. ¶ 20.)

Petitioners seek a writ of mandate directing the Attorney General to amend or delete the certified ballot label, title, and summary for Proposition 39 and instead certify the circulating title and summary, which was issued on September 19, 2025. (Pet. 8:25-9:6.) Alternatively, Petitioners seek a writ of mandate directing the Attorney General to delete the statement that the measure “prohibits citizens from voting” from the ballot title, summary and label, and certify compliant alternate language. (Pet. 9:7-10.)

Legal Framework and Standard of Review

“The Legislature has conferred upon the Attorney General the task of preparing, in no more than 100 words, an impartial title and summary for each initiative measure submitted to the voters.” (*Becerra v. Superior Court* (2017) 19 Cal.App.5th 967, 974-975, citing Elec. Code, §§ 9004, 9051.) Because “drafting a title and summary ‘can be a difficult task where multiple reasonable interpretations...are possible,’” “the Attorney General is afforded considerable latitude” in preparing the ballot label, title, and summary. (*Yes on 25, Citizens for An On-Time Budget v. Superior Court* (2010) 189 Cal.App.4th 1445, 1452-1453, quoting *Zaremborg v. Superior Court* (2004) 115 Cal.App.4th 111, 117.)

By contrast, “the courts are not vested with a wide range of discretion” in ruling on preelection challenges to the sufficiency of the Attorney General’s ballot materials. (*Id.* at p. 1453.) “Relief may be granted “only upon clear and convincing proof that the [challenged ballot materials] in question [are] false, misleading, or inconsistent with the requirements of this code[.]” (*Ibid*, quoting Elec. Code, § 9092.)

Discussion

Petitioners first argue that the ballot title statement, “PROHIBITS CITIZENS FROM VOTING” is inaccurate because Proposition 39 would not prohibit the act of casting a ballot, but would

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instead prohibit the counting of ballots not in compliance with the measure's identification requirements. Petitioners contend that Proposition 39 "is a verification rule, not a disqualification," arguing that the measure "regulates which ballots are counted, not whether a citizen may cast one[.]" (Opening Mem. 9:8-11.) Thus, under Petitioners' formulation, a citizen who casts a ballot but fails to provide sufficient identification under Proposition 39's requirements has "voted," even though their ballot was not counted.

The language of Proposition 39 does not support Petitioners' characterization, however. For in-person voting, Proposition 39 provides: "Each time a voter casts a ballot in person in any election in the State, the voter shall present a government-issued identification[.]" (Pet. Exh. B.) This provision on its face requires a voter to "present a government-issued identification" when casting a ballot. A citizen who failed to present such identification would indeed be prohibited from *both* casting a ballot *and* having their ballot counted.

For mail-in voting, Proposition 39 provides: "[I]f voting by mail, the voter shall provide the last four digits of a unique identifying number from government-issued identification that matches the one designated by the voter for their voter registration." (Pet. Exh. B.) This provision also imposes a requirement on voters in the submission of their ballots, as a voter must provide the appropriate identifying number when "voting by mail." This number is a form of government-issued identification. Even if it were not, the voter would have had to present a government-issued identification document to the appropriate elections official in order for the four-digit number to be verified.

Proposition 39 is therefore not merely "a verification rule," as it imposes substantive restrictions on the submission of ballots by citizens. The statement that Proposition 39 "prohibits citizens from voting unless they present government-issued identification" is accurate.

Moreover, even accepting Petitioners' premise that Proposition 39 primarily operates by preventing the counting of ballots not submitted in compliance with the identification requirements, this also does not mean that the statement, "prohibits citizens from voting unless they present government-issued identification," is inaccurate or misleading. The act of voting means more than the mere submission of a ballot. Merriam-Webster defines the verb form of "vote" as "to choose, endorse, decide the disposition of, defeat, or authorize (someone or something) by vote." (www.merriam-webster.com/dictionary/vote.) Casting a ballot that will not be counted means that the caster has not accomplished any choice, endorsement, or decision. Further, as the Attorney General argues (Opp. 22:5-24), courts have long recognized that the act of voting inherently includes the counting of one's vote: "There is more to the right to vote than the right to mark a piece of paper and drop it in a box or a right to pull a lever in a voting booth ... It also includes the right to have the vote counted at full value without dilution or discount." (*Gould v. Grubb* (1975) 14 Cal.3d 661, 671 fn. 10 [quoting *South v. Peters* (1949) 339 U.S. 276, 279 (dissenting opn.)].)

Petitioners' contention that Proposition 39 would not prohibit "voting" because it may allow the

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submission of ballots that will not be counted is inconsistent with the settled understanding of what it means to “vote.” Because Proposition 39 would prohibit the counting of ballots not submitted in compliance with the identification requirements, there is nothing misleading or inaccurate about the statement that the measure “prohibits citizens from voting unless they present government-issued identification.”

Petitioners also argue in their papers that the certified ballot materials omit or obscure material information about Proposition 39’s purpose. They contend that in addition to the voter identification requirement in subdivision (b) of the measure, “Subsection (a) imposes a freestanding, affirmative duty on state and county officials to maintain accurate voter rolls and to use best efforts to verify citizenship, a regulatory obligation on government actors, independent of anything a voter does at the polls.” (Opening Mem. 12:5-8.) Petitioners argue that this second purpose of Proposition 39 is not mentioned in the ballot label at all, and the ballot title and summary “mentions only a fragment (a single line requiring officials to ‘annually report percentage of each county’s voters whose citizenship they have verified’) while omitting the substantive duty to maintain accurate rolls and verify citizenship[.]” (Opening Mem. 12:8-11.) This specific challenge was not raised at oral argument. However, to the degree this argument remains extant, the Court determines as follows.

The Attorney General “exercises judgment and discretion in discerning the chief purposes and points of an initiative measure[.]” (*Becerra v. Superior Court*, *supra*, 19 Cal.App.5th at p. 975.) “The title and summary need not contain a complete catalogue or index of all the measure’s provisions[.]” (*Lungren v. Superior Court* (1996) 48 Cal.App.4th 435, 439, cleaned up.)

Here, the Attorney General points out that to the degree that the measure’s subdivision (a) requires State and local officials to maintain voter registration lists and verify citizenship for voting, this reflects existing law. (See Pet. Exh. E [Legislative Analyst Office Analysis of Measure [“Elections officials are required to keep the voter rolls up to date by removing people who are no longer eligible to vote from the list;” “Voters identify themselves when they vote in California”].) Thus, the Attorney General reasonably did not include these among the measure’s “chief purposes,” as they do not effect a change in the law.

The certified title and summary provides the following information about Proposition 39’s requirements for elections officials: “Requires elections officials to annually report percentage of each county’s voters whose citizenship status they have verified.” (Pet. Exh. A.) The Attorney General contends that this annual reporting requirement is “the only new requirement” provided for in subdivision (a) of Proposition 39, and thus he reasonably did not include in the ballot summary the other provisions of subdivision (a) that would not change existing law. (Opp. 25:15-17.)

This is an appropriate exercise of the Attorney General’s discretion “in discerning the chief purposes and points of an initiative measure” and there is no basis for the Court to disturb it. (*Becerra v. Superior Court*, *supra*, 19 Cal.App.5th at p. 975.)

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Finally, Petitioners contend that differences between the certified ballot materials and the circulating ballot materials, as well as the Legislative Analyst's analysis, demonstrate that the certified materials are improper. Petitioners argue that the circulating ballot materials "produced a neutral description," but that in adopting the certified ballot materials, the Attorney General "replaced it with a charged, one-sided description that recasts the measure as a prohibition on voting *by citizens* and buries its second purpose[.]" (Opening Mem. 14:8-10.) Petitioners argue that the language in the certified ballot materials "is likely to create prejudice against the measure, whether or not it was so intended." (*Id.* at 14:10-11, italics in original.) Petitioners' arguments are not legally sufficient to warrant the Court's intervention in the Attorney General's preparation of ballot materials.

The circulating ballot materials and the Legislative Analyst's analysis are irrelevant to the question of whether the certified ballot materials comply with the Elections Code section 9051. The first provision of that statute expressly provides "[t]he ballot title and summary may differ from the legislative, circulating, or other title and summary of the measure[.]" (Elec. Code, § 9051, subd. (a)(1).) The fact that Proposition 39's effects were described differently in the circulating materials and by the Legislative Analyst does not give rise to any adverse inference regarding the certified ballot materials. As Petitioners acknowledge, "[t]here will always be a multitude of ways in which any initiative or ballot proposal 'could have' been described." (*Becerra v. Superior Court, supra*, 19 Cal.App.5th at p. 979.)

Here, the certified ballot label, title, and summary accurately describe the provisions of Proposition 39. As discussed above, the measure's voter identification requirement in fact "prohibits citizens from voting unless they present government-issued identification." To the degree Petitioners object to the ballot title's "prohibitive framing," that is an objection to the provisions of the measure itself. (Opening Mem. 6:21.) The ballot materials also apprise voters regarding the other changes the measure would make to existing law, explaining that elections officials would be required to prepare annual reporting of citizenship verification. (Pet. Exh. A.) Accordingly, on these findings, "there is no basis to conclude that the Attorney General's work product is inaccurate, argumentative or misleading, or otherwise beyond the bounds of the extensive discretion reposed in that office in fashioning a title and summary." (*Becerra v. Superior Court, supra*, 19 Cal.App.5th at p. 979-780.)

Disposition

The Petition is denied. Respondent and/or Real Parties in Interest shall prepare a judgment for the Court's signature.

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By: */s/ S. Paul*
S. Paul, Deputy Clerk

Minutes of: 08/06/2026
Entered on: 08/06/2026