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12
13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF SACRAMENTO

16 HOWARD JARVIS TAXPAYERS
ASSOCIATION, DAVID WOLFE,
17 and ANTHONY WRIGHT

18 Petitioners,

19 v.

20 DEBRA BOWEN, in her official capacity as
CALIFORNIA SECRETARY OF STATE,
21
22 Respondent,

24 GEOFF BRANDT, in his official capacity as State
Printer; the LEGISLATURE OF THE STATE OF
25 CALIFORNIA; MAC TAYLOR, in his official
capacity as Legislative Analyst.
26
27 Real Parties in Interest.

CASE NO.:

VERIFIED PETITION FOR WRIT OF
MANDATE

[ELEC. CODE, §§ 13314; 9092]

STATEWIDE ELECTION MATTER
IMMEDIATE ACTION REQUESTED

STATUTORY DEADLINE: MARCH 5, 2009

[PROPOSITION 1A]

Date:
Time:
Dept.:

1 Petitioners, DAVID WOLFE, HOWARD JARVIS TAXPAYERS ASSOCIATION and
2 ANTHONY WRIGHT state as follows:

3 **INTRODUCTION**

4 1. Petitioners bring this action to challenge certain information to be provided to voters in
5 connection with Proposition 1A, a measure to be considered by the voters at the May 19, 2009 Special
6 Statewide Election. Specifically, petitioners challenge the ballot label and the title and summary as
7 those materials are not fair and impartial, are false and misleading, and/or fail to state the chief points of
8 the measure.

9 2. In the early morning hours of February 19, 2009, the Legislature passed a series of bills
10 which have been collectively referred to as the “budget package.” The package of bills was signed by
11 the Governor on February 20, 2009. Because the package relies on a number of constitutional and
12 statutory changes that the Legislature is not authorized to make without voter approval, the Legislature
13 also adopted Senate Bill 19 (Stats. 2009, 3rd Ex. Sess. 2009-10, ch. 7 (“SB 19”)), which calls a Special
14 Election for May 19, 2009. A true copy of SB 19 is attached as Ex. A to Petitioners’ Request for
15 Judicial Notice.

16 3. SB 19 goes far beyond simply placing the six measures on the May 19, 2009 ballot; in
17 each case, the Legislature took the responsibility for preparing the title and summary and ballot label
18 away from the Attorney General, who is currently entrusted by statute to prepare a “fair and impartial”
19 summary of each ballot measure for the ballot materials. Instead, the Legislature imposed its own title
20 and summary and ballot label for each measure, which are not only *not* fair and impartial, but which are
21 affirmatively misleading in a number of particulars and which improperly use highly charged
22 “advocacy” language in an attempt to persuade voters to adopt the proposed measures. This attempt to
23 use ballot materials that are supposed to be impartial to try to persuade voters is unlawful.

24 4. This action concerns the measure designated by the Legislature as Proposition 1A. The
25 substantive terms of Proposition 1A are found in Senate Constitutional Amendment 13 (Stats. 2007, res.
26 ch. 144)(“SCA 13”), as amended by Assembly Constitutional Amendment 1 (Stats. 2009, 3rd Ex. Sess.
27 2009-10, res. ch. 1.) (“ACA 1.”) A true copy of SCA 13 is attached as Ex. B to Petitioners’ Request for
28 Judicial Notice. A true copy of ACA 1 is attached as Ex. C to Petitioners’ Request for Judicial Notice.

1 5. In brief, SCA 13 and ACA 1 (now designated as Proposition 1A) propose changes to the
2 name and operational terms of the General Fund reserve account added to the California Constitution in
3 2004 as section 20 of Article XVI. The existing “Budget Stabilization Account,” which requires 3% of
4 General Fund revenues to be set aside as a reserve, is re-named the “Budget Stabilization Fund” (“BSF”
5 or the “Fund”) and the target amount to be kept in the Fund is raised from 5% of total revenues to
6 12.5%. Significantly, 1.5% of revenues of the 3% annual deposit, or fully one-half of the revenues
7 required to be set aside by existing law, would then be siphoned off for purposes other than the
8 traditional purposes of a reserve account. In fact, the half of the revenues set aside from the BSF are to
9 be used initially to repay certain education debt,¹ and later for capital improvements or for debt service.
10 The effect of this transfer of half of the reserve funds into a “non-reserve” account will, in effect, require
11 twice the stated amount – or 25% of General Fund revenues – to be set aside in order to achieve the
12 desired 12.5% reserve. It will also create an essentially unlimited account which can only be spent on
13 infrastructure and state bond debt – thus making spending in those areas increasingly attractive,
14 especially relative to other areas of State spending.

15 6. In addition to the required 3% deposit, Proposition 1A would require that “unanticipated
16 revenues” be transferred to the BSF (with some limited exceptions). The measure creates two formulas
17 for determining the amount of “unanticipated revenues” subject to transfer. The first is the difference
18 between estimated revenue collections and the “revenue forecast amount” based on a 10-year trend-line
19 projection. The second is the difference between estimated revenue collections and prior year spending
20 adjusted by population growth and inflation (based on the Consumer Price Index). The measure also
21 limits the Governor’s discretion to suspend transfers into the BSF, and eliminates any legislative
22 discretion over the transfers.

23 7. Although Proposition 1A allows for some transfers from the BSF to be made to the
24 General Fund to assist with budget shortfalls, the circumstances under which transfer can occur, and the
25 amount that may be transferred, are limited. The measure limits transfers to prior year expenditures

26 _____
27 ¹ Proposition 1A is also tied to another measure currently on the May 19, 2009 special election ballot, Proposition 1B.
28 Proposition 1B, if passed, would impose a mandatory annual payment equal to 1.5% of total State revenues from the BSF to schools and community colleges – up to a cumulative total of \$9.3 billion – to repay “recent funding reductions.” (RJN, Ex. J, p. 4.)

1 adjusted for population growth and inflation, even if the actual costs of exactly the same programs or
2 services (i.e., the “baseline cost”) exceeds this figure.

3 8. An extremely important element of the budget package signed by the Governor on
4 February 20, 2009 is ABX3 3 – the measure that instituted certain tax increases. The language of ABX3
5 3 provides for temporary increases in the state sales tax, vehicle license fees and personal income tax
6 rates. Each will expire in 2010 or 2011 unless Proposition 1A is adopted, in which case these taxes will
7 be extended through 2012 or 2013 (depending on the tax). The passage or defeat of Proposition 1A is
8 thus directly tied to the extension of the tax increases provided in ABX3 3. A true copy of ABX3 3 is
9 attached as Ex. D to Petitioners’ Request for Judicial Notice.

10 9. Finally, the Legislature has provided the Governor with new authority to limit State
11 spending without legislative approval – specifically the power to reduce expenditures for general state
12 operations and the authority to reduce cost-of-living adjustments for programs specified in the annual
13 budget. (Stats. 2009, 3rd Ex. Sess., ch. 4.) This expanded authority, like the extended tax increases, is
14 tied to voter approval of Proposition 1A. A true copy of SBX3 8 is attached as Ex. E to Petitioners’
15 Request for Judicial Notice.

16 10. Petitioners allege that the title and summary and ballot label improperly – and in some
17 cases, inaccurately – focus on the perceived advantages of Proposition 1A while hiding or omitting
18 critical information about the measure, such as most of the features described above. The language used
19 to try to convince voters that this is simply an innocuous “rainy day” fund that will put aside money for
20 use when Californians need it in difficult financial times is belied by the details of the measure; the title
21 and summary and ballot label do not provide a fair and impartial description of the proposed measure,
22 are false and/or misleading, or fail to state the chief points of the measure and must be corrected or
23 amended by this Court.

24 **SIGNIFICANT STATUTORY DEADLINES**

25
26 11. Normally, the Elections Code provides for a 20-day period in which voters are entitled to
27 review the ballot materials and file any legal challenges. (Elec. Code, § 9092.) However, Section 8(c)
28 of SB 19 provides that “[n]otwithstanding Section 13282 of the Elections Code or any other provision of

1 law, the public shall be permitted to examine the condensed statements of the ballot titles for eight days.
2 **Any voter may seek a writ of mandate for the purpose of requiring the condensed statements of**
3 **the ballot titles, or portions thereof, to be amended or deleted only within that eight-day period.”**

4 (R.J.N. Ex. A, p. 9, emphasis added.)

5 12. Late in the day on Friday, February 20, 2009, the Secretary of State’s office issued an
6 Elections Calendar for the May 19, 2009 Special Election with the following deadlines:

- 7 February 25, 2009 Ballot Labels Available for Inspection
- 8 February 26, 2009 Remaining Ballot Materials Available for Inspection
- 9 **March 5, 2009 Deadline for Inspection and Challenge to Ballot Labels**
- 10 March 18, 2009 Deadline for Inspection and Challenge to Other Materials

11 A true copy of the Secretary of State’s Election Calendar for the Special Election is attached to
12 Petitioners’ Request for Judicial Notice as Ex. F.

13 13. This action seeks to correct both the ballot label and the title and summary. Although
14 only the lawfulness of the ballot label must be litigated within the eight-day period imposed by SB 19,
15 the lawfulness of the title and summary must be litigated by March 18, 2009. Petitioners have filed
16 these actions together because the arguments related to the ballot label and the title and summary are
17 significantly intertwined, petitioners believe it is in the interest of judicial economy to address them
18 together, and the second deadline is only slightly later than the March 5 deadline. **The Court may**
19 **choose to address only the ballot label before the March 5 deadline and reserve the title and**
20 **summary issues to be resolved before the March 18 deadline, but the ballot label challenge must**
21 **be resolved on or before March 5, 2009.**

22
23 **PARTIES**

24 14. Petitioner Howard Jarvis Taxpayers Association (HJTA) is a nonprofit public benefit
25 corporation organized under the laws of California. HJTA is comprised of more than 200,000 taxpayer
26 members throughout California, most of whom are registered voters, many of whom will be voting in
27 the May 19, 2009 special election.

28 15. Petitioner David Wolfe, a registered voter in the State of California, is the Legislative

1 Director the Howard Jarvis Taxpayer's Association.

2 16. Petitioner Anthony Wright, a registered voter in the State of California, is the Executive
3 Director for Health Access California, the statewide health care consumer advocacy coalition, working
4 on behalf of the insured and uninsured, made up of over 200 organizations representing seniors,
5 children, working families, people with disabilities, immigrants, people of faith, labor, and communities
6 of color.

7 17. Respondent Debra Bowen is the Secretary of State of California and is the State's chief
8 elections officer. She is charged with the duty of preparing a ballot pamphlet with respect to statewide
9 initiative measures as well as ballots, ballot materials, sample ballots, and other voting materials. (Elec.
10 Code, §§ 9081-9086.) Elections Code sections 9092 and 13314 require that the Secretary of State be
11 named as a respondent in this proceeding. She is sued in her official capacity only.

12 18. Respondent Geoff Brandt is the State Printer of the State of California. He is charged
13 with printing the ballot pamphlet prepared by the Secretary State. Elections Code section 9092 requires
14 that the State Printer be named as a real party in interest in this proceeding. He is sued in his official
15 capacity only.

16 19. Real Party in Interest California Legislature is the body in which the California
17 Constitution vests all legislative power not reserved to the people. In passing SB 19, the California
18 Legislature designated the content of the ballot label and title and summary for Proposition 1A and
19 directed the Secretary of State to include the same in all official ballot materials for the May 19, 2009
20 Special Statewide Election. Elections Code section 9092 requires the California Legislature be named
21 as a real party in interest in this proceeding.

22 20. Real Party in Interest Legislative Analyst Mac Taylor is the head of the Legislative
23 Analyst's Office ("LAO") and is the state official tasked with preparing impartial fiscal analyses of
24 measures submitted to voters pursuant to Elections Code section 9087. The LAO fiscal analysis is
25 included in the ballot pamphlet distributed to voters. SB 19 directs the Attorney General to "include"
26 the fiscal impact summary prepared pursuant to Elections Code 9087 in the ballot label and title and
27 summary for Proposition 1A. Upon information and belief, petitioners understand that the Legislative
28 Analyst is the author of the fiscal impact summaries that the Attorney General included in the ballot.

1 label and title and summary for Proposition 1A.

2
3 **ALLEGATIONS**

4 21. On February 20, 2009, the Governor signed a series of bills which have been collectively
5 referred to as the “budget package.” Because the package relies on a number of constitutional and
6 statutory changes that require voter approval, the Legislature adopted Senate Bill 19 (also referred to as
7 SBX3 19, or SB 19), which calls a Special Election for May 19, 2009. (RJN, Ex. A.)

8 22. Proposition 1A is one of six measures the Legislature is presenting to voters on the May
9 19, 2009 ballot. The substance of Proposition 1A can be found in Senate Constitutional Amendment 13
10 (also referred to as SCA 13) (RJN, Ex. B) and Assembly Constitutional Amendment 1 (also referred to
11 as ACAX3 1 or SCA 1). (RJN, Ex. C.) Because SCA 13 and ACA 1 seek to amend the California
12 Constitution, their terms must be approved by the voters before they can become operative.

13 23. The Elections Code directs the Attorney General to prepare an impartial ballot label and
14 title and summary describing the purpose and effect of each ballot measure presented to the voters.
15 (Elec. Code, §§ 9050-51, 13247, 13280-81.) In SB 19, the Legislature overrode these provisions for
16 each of the measures it is presenting to voters on the May 19 ballot and instead imposed titles and
17 summaries and ballot labels for each proposed measure that were prepared by the Legislature. (See
18 RJN, Ex. A.) The Attorney General is prohibited from revising any of these ballot labels or titles and
19 summaries, although he is directed to include the fiscal summary from the Legislative Analyst’s Office
20 (“LAO”). (*Id.*)

21 24. SB 19 directs that SCA 13, as amended by ACA 1, shall be presented to the voters as
22 “Proposition 1A” and that the ballot materials for Proposition 1A shall include a specific ballot label and
23 title and summary set forth therein. (RJN, Ex. A, pp. 2-3.) The ballot label required by the Legislature
24 reads as follows :

25 ‘RAINY DAY’ BUDGET STABILIZATION FUND. Reforms the budget
26 process. Limits future deficits and overspending by increasing the
27 size of the state ‘rainy day’ fund and requiring above-average
28 revenues to be deposited into it, for use during economic downturns.

1 The title and summary required by the Legislature reads as follows:

2 STABILIZES STATE BUDGET. REFORMS CALIFORNIA BUDGET PROCESS.
3 LIMITS STATE SPENDING. INCREASES 'RAINY DAY' BUDGET
4 STABILIZATION FUND. Increases size of state 'rainy day' fund from 5% to 12.5% of
5 the General Fund. A portion of the annual deposits into that fund would be dedicated to
6 savings for future economic downturns, and the remainder would be available to fund
7 education, infrastructure, and debt repayment, or for use in a declared emergency.
8 Requires additional revenue above historic trends to be deposited into state 'rainy day'
9 fund, limiting unsustainable spending of one-time spikes in revenue.

10 25. At approximately 4:45 p.m. on February 26, 2009, the Attorney General added the
11 LAO's fiscal summary to the ballot label, which reads as follows:

12 Fiscal Impact: Higher state tax revenues of roughly \$16 billion from 2010-11 through
13 2012-13. Over time, increased amounts of money in state rainy day reserve and
14 potentially less ups and downs in state spending.

15 A true copy of the final ballot label, including the fiscal analysis, is attached to Petitioners' Request for
16 Judicial Notice, Ex. G. The Attorney General also added the LAO's "Summary of Legislative Analyst's
17 Estimate of Net State and Local Government Fiscal Impact" to the title and summary:

- 18 • Higher state tax revenues of roughly \$16 billion from 2010-11 through 2012-13 to help
19 balance the state budget.
- 20 • In many years, increased amounts of money in state "rainy day" reserve fund.
- 21 • Potentially less ups and downs in state spending over time.
- 22 • Possible greater state spending on repaying budgetary borrowing and debt,
23 infrastructure projects, and temporary tax relief. In some cases, this would mean less
24 money available to spend on ongoing spending increases.

25 A true copy of the final title and summary, including the fiscal analysis, is attached to Petitioners'
26 Request for Judicial Notice, Ex. H.

27 26. Also on February 26, 2009, the LAO analysis of Proposition 1A and the "Yes/No
28 Statement" which explains to voters the effect of voting for or against a measure was released. True
copies of the LAO analysis and the "Yes/No Statement" released on February 26, 2009 is attached to
Petitioners' Request for Judicial Notice as Ex. J and I, respectively. As set forth more fully in
Petitioners' Memorandum of Points and Authorities, the LAO analysis and the Yes/No Statement
contain important information missing from the Legislature's description of the measure. For example,

1 the LAO explanation of a “Yes” vote states: “. . . *Higher state taxes recently passed would be extended*
2 *for up to two years.*” This information appears nowhere in the ballot label or title and summary. Other
3 inconsistencies between the LAO analysis and the Legislature’s claims are no less striking.

4 27. Elections Code section 9051 requires the title and summary prepared by the Attorney
5 General to be a “true and impartial statement of the purpose of the measure” that is “neither an
6 argument, nor be likely to create prejudice, for or against the proposed measure.” (Elec. Code, § 9051.)
7 The shorter ballot label and ballot summary are to be “condensed” versions of the title and summary.
8 (Elec. Code, §§ 13247, 13280-81.) The fiscal summary prepared by the LAO and included in the ballot
9 label and title and summary must also be “impartial.” (Elec. Code, § 9087.) The requirement that the
10 title and summary be fair and impartial applies equally to the Legislature when it assumes the
11 responsibility for preparing the title and summary and ballot argument.

12 28. This action is brought pursuant to Elections Code section 9092, which provides that this
13 court may issue a writ of mandate to prevent the publication of material in the ballot pamphlet that is
14 “false, misleading or inconsistent with the requirements of [the Elections Code] or Chapter 8
15 (commencing with Section 88000) of Title 9 of the Government Code” and Elections Code section
16 13314, which authorizes the Court to issue a peremptory writ of mandate “upon proof . . . that an error,
17 omission, or neglect” violates the California Constitution and “that issuance of the writ will not
18 substantially interfere with the conduct of the election.” (Elec. Code § 13314, subd. (a)(2).)
19 The ballot label for Proposition 1A is not fair and impartial and is likely to create prejudice in favor of
20 the measure in several ways by the use of terms such as “Rainy Day,” “Stabilization,” “Reforms,” and
21 “Overspending.” The ballot title and summary similarly uses non-neutral terms such as “Stabilizes,”
22 “Reforms,” “Rainy Day,” “Stabilization,” and “Help balance the budget.” These terms have no place in
23 a fair and impartial summary and should be stricken or replaced with more neutral terms.

24 29. The ballot label and title and summary for Proposition 1A are also false and/or
25 misleading as those terms are used in Elections Code section 9092. False and/or misleading statements
26 in the ballot label include:

27 **‘RAINY DAY’ BUDGET STABILIZATION FUND**
28 **Proposition 1A “[l]imits future deficits and overspending”**

1 **Proposition 1A “require[es] above-average revenues to be deposited into [the**
2 **Budget Stabilization Fund]”**

3 **Budget Stabilization Fund revenues will be available “for use during economic**
4 **downturns”**

5 False and/or misleading statements in the ballot title and summary include:

6 **STABILIZES STATE BUDGET. REFORMS CALIFORNIA BUDGET PROCESS**

7 **INCREASES ‘RAINY DAY’ BUDGET STABILIZATION FUND**

8 **Proposition 1A “[i]ncreases size of state ‘rainy day’ fund from 5% to 12.5% of the General**
9 **Fund. A portion of the annual deposits into that fund would be dedicated to savings for**
10 **future economic downturns”**

11 **Proposition 1A “[r]equires additional revenue above historic trends to be deposited into**
12 **state ‘rainy day’ fund”**

13 **Deposits required by Proposition 1A “limit[] unsustainable spending of one-time**
14 **spikes in revenue”**

15 These statements are inconsistent with the terms of Proposition 1A, as evidenced by the
16 statements of the Legislative Analyst. In particular, these statements assert that only “above-average”
17 revenues or revenues that would involve “overspending” will be placed in the BSF, and that such funds
18 will be available for use during “economic downturns.” In fact, the formula dictated by Proposition 1A
19 is likely to require deposits in not-so-good times as well as good times. The measure requires
20 “unanticipated revenues” to be deposited. The definition of “unanticipated revenues” has nothing to do
21 with “average” revenues and will, in many cases limit spending even on existing programs and services.
22 In addition, the limits on the use of the BSF mean that those funds will not be available – even during
23 economic downturns. Transfers from the BSF will in many – if not most – cases be limited to the prior
24 years expenditures adjusted for population growth and inflation irrespective of the cost of current
25 programs or services or the needs of the State and its citizens.

26 Upon information and belief, the non-English translations of the ballot label and title and
27 summary will accurately translate the current English versions imposed by the Legislature, and will
28 require correction or amendment to the same extent the English versions require correction or

1 amendment.

2 30. Petitioners have no other adequate remedy at law and will suffer immediate and
3 irreparable injury unless this Court issues a writ of mandate deleting or amending the biased, false
4 and/or misleading statements as described herein.

5 31. Petitioners are informed and believe, and on that basis allege, that issuance of a writ
6 requiring the amendments and deletions set forth below will not interfere with the printing and
7 distribution of the ballot pamphlet. According to the Secretary of State's May 19, 2009 California
8 Special Statewide Election Calendar (RJN, Ex. E), the period for public review and legal challenges to
9 any ballot label contained in the Special Election provisions of SB 19 began February 25 and ends
10 March 5, 2009. The period for public review and legal challenges to the remaining ballot materials for
11 the Special Election, including the title and summary, began February 26 and ends March 18, 2009.

12
13 **FIRST CLAIM**

14 **[BALLOT LABEL FOR PROPOSITION 1A]**

15 32. Petitioners incorporate paragraphs 1 through 30 of this Petition.

16 33. The Official Ballot Label states, in part, that Proposition 1A:

17 'RAINY DAY' BUDGET STABILIZATION FUND. Reforms the budget process.
18 Limits future deficits and overspending by increasing the size of the state 'rainy day'
19 fund and requiring above-average revenues to be deposited into it, for use during
20 economic downturns.

21 Fiscal Impact: Higher state tax revenues of roughly \$16 billion from 2010-11 through
22 2012-13. Over time, increased amounts of money in state rainy day reserve and
23 potentially less ups and downs in state spending.

24 34. The ballot label for Proposition 1A required by SB 19 to be provided in the ballot
25 materials mailed to voters for the Special Election is not fair and impartial and constitutes an
26 impermissible use of public funds to attempt to bring about a particular result in an election campaign.
27 (*Stanson v. Mott* (1976) 17 Cal.3d 206.)

28 35. The ballot label for Proposition 1A is also false and/or misleading.

36. To ensure neutrality and prevent the ballot label from being false and/or misleading, this
Court should amend or correct this statement as follows:

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~~'RAINY DAY' BUDGET STABILIZATION RESERVE FUND. Reforms Changes the budget process. Could limits future deficits and overspending by increasing the size of the state 'rainy day' reserve fund and requiring above-average revenues to be deposited into it, for possible use during economic downturns. and other purposes.~~

Fiscal Impact: ~~Higher sState tax revenues increases of roughly \$16 billion from 2010-11 through 2012-13. Over time, increased amounts of money in state rainy day reserve fund and potentially less ups and downs in state spending. depending on future legislative actions.~~

37. This suggested language is a fair and accurate reading of Proposition 1A.

SECOND CLAIM

[BALLOT TITLE AND SUMMARY FOR PROPOSITION 1A]

38. Petitioners incorporate paragraphs 1 through 36 of this Petition.

39. The Official Title and Summary for Proposition 1A is as follows:

BALLOT TITLE AND SUMMARY

STABILIZES STATE BUDGET. REFORMS CALIFORNIA BUDGET PROCESS. LIMITS STATE SPENDING. INCREASES "RAINY DAY" BUDGET STABILIZATION FUND.

- Increases size of state "rainy day" fund from 5% to 12.5% of the General Fund.
- A portion of the annual deposits into that fund would be dedicated to savings for future economic downturns, and the remainder would be available to fund education, infrastructure, and debt repayment, or for use in a declared emergency.
- Requires additional revenue above historic trends to be deposited into state "rainy day" fund, limiting unsustainable spending of one-time spikes in revenue.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Higher state tax revenues of roughly \$16 billion from 2010-11 through 2012-13 to help balance the state budget.
- In many years, increased amounts of money in state "rainy day" reserve fund.
- Potentially less ups and downs in state spending over time.
- Possible greater state spending on repaying budgetary borrowing and debt, infrastructure projects, and temporary tax relief. In some cases, this would mean

1 less money available to spend on ongoing spending increases.

2 40. The ballot title and summary for Proposition 1A required by SB 19 to be provided in the
3 ballot materials mailed to voters for the Special Election is not fair and impartial and constitutes an
4 impermissible use of public funds to attempt to bring about a particular result in an election campaign.
5 (*Stanson v. Mott* (1976) 17 Cal.3d 206.)

6 41. The title and summary is also false and/or misleading.

7 42. To ensure neutrality and prevent the title and summary from being false and/or
8 misleading, this Court should amend or correct this statement as follows:

9 **~~STABILIZES STATE BUDGET. REFORMS CHANGES CALIFORNIA BUDGET~~**
10 **~~PROCESS. LIMITS STATE SPENDING. INCREASES "RAINY DAY" BUDGET~~**
11 **~~STABILIZATION RESERVE FUND. EXTENDS TAX INCREASES.~~**

- 12 • Increases size of state "~~rainy day~~" *reserve* fund from 5% to 12.5% of the General Fund.
- 13 • A portion of the annual deposits into that fund would be dedicated to savings for
14 future economic downturns, and the remainder would be available to ~~fund~~ *spend on*
15 education, infrastructure, and debt repayment, or for use in a declared emergency.
- 16 • Requires ~~additional~~ revenue above historic trends to be deposited into state "~~rainy~~
~~day~~" *reserve* fund, limiting ~~unsustainable~~ spending. ~~of one-time spikes in revenue.~~

17 Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal
18 Impact:

- 19 • ~~Higher~~ State tax revenues *increases* of roughly \$16 billion from 2010-11 through
20 2012-13 ~~to help balance the state budget. to address immediate fiscal concerns.~~
- 21 • In many years, increased amounts of money in state "~~rainy day~~" reserve fund.
- 22 • ~~Potentially less ups and downs in state spending over time.~~
- 23 • Possible greater state spending on repaying budgetary borrowing and debt,
24 infrastructure projects, and temporary tax relief. In some cases, this would mean
25 less money available to spend on ongoing spending ~~increases.~~

26 43. This suggested language is a fair and accurate reading of Proposition 1A.

27 **RELIEF**

28 WHEREFORE, Petitioners pray that this Court:

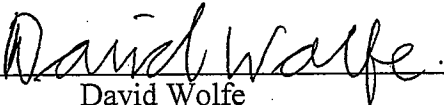
VERIFICATION

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I, David Wolfe, declare that I am a Petitioner herein.

I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof. The same is true of my own knowledge, except as to those matters which are herein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Dated this 2 day of March, 2009 in Sacramento, California.



David Wolfe
Legislative Director of the Howard Jarvis

OLSON HAGEL & FISHBURN LLP
555 CAPITOL MALL, SUITE 1425, SACRAMENTO, CA 95814