

Prepared Remarks of Harvey Rosenfield  
Foundation for Taxpayer and Consumer Rights  
“California’s Initiative Process and the Governor’s Initiatives: Does the  
Initiative Process Need to be Reformed?”  
San Francisco Commonwealth Club  
June 10, 2005

As the author of Proposition 103 and a proponent of other ballot measures on HMO reform and electricity deregulation, I am a strong believer in the initiative process and the wisdom of the voters, and we have consistently opposed suggestions that the initiative process be “reformed.” Like democracy itself, the initiative process does not always work perfectly. And when it doesn’t, it’s usually because of problems endemic to democracy in general, such as decisions by the U.S. Supreme Court that treat corporations as human beings under the First Amendment, thus prohibiting any limits on corporate political spending. Most of the “reforms” that have been suggested would make it harder, not easier, for the average citizen to place a measure on the ballot.

But I believe that recent actions by Governor Schwarzenegger represent the most serious threat to the initiative process since it was first proposed by Hiram Johnson in 1911, and that strong and immediate action is necessary to protect this most sacred of California voters’ rights.

Arnold Schwarzenegger’s expected decision next week to call an unprecedented, \$80 million extra election next November in order to hold a vote on his ballot propositions is an abuse of his executive power.

Aside from the gross indulgence of spending scarce taxpayer money, this action reflects an insidious kind of self-dealing. Never before to our knowledge has a sitting governor invoked his constitutional authority to call a special election when the only purpose of the election is the enactment of his own ballot measures.

There is absolutely no public urgency or other extenuating circumstance that would justify the extra election. Nor do these initiatives provide any authority necessary to enable the Governor of California to perform any duties of the office between now and the regularly scheduled election of June 2006. Nor has Mr. Schwarzenegger pursued his proposals within the State Legislature, which has the constitutional authority to place measures on the ballot.

Rather, it is clear that calling a special election is solely intended to advance the personal political agenda of Arnold Schwarzenegger and his prospects as a candidate in 2006.

Wasting \$80 million of taxpayer money to hold his own personal election is just the latest in this governor's abusive exploitation of the initiative process. As has been documented in the news media and in legal proceedings, Governor Schwarzenegger's initiatives are serving as a Trojan Horse for the Governor to surreptitiously promote his image through special interest fundraising that violates the letter and spirit of state campaign laws. He has raised \$40 million so far, from industries and special interests, in amounts that far exceed the \$25,000 per donor limits imposed by state campaign laws. (The Governor is challenging regulations applying those limits in court.) And by holding the vote this year, Mr. Schwarzenegger evades a state law that forbids a candidate for public office from appearing in commercials on behalf of ballot campaigns within forty-five days of an election in which he is on the ballot.

The rules Governor Schwarzenegger is evading are intended to prevent exactly the abuses he is engaging in here: utilizing the initiative process as a vehicle to fund a high visibility campaign promoting a candidate for office. Indeed, Mr. Schwarzenegger has already begun appearing in self-promotional television commercials funded by his initiative committees

California's initiative process was designed to permit voters to take matters in their own hands when government fails to act. But Governor Schwarzenegger has made a mockery of this tool of democracy, using his executive powers to feather his own nest and in the process turning the initiative process over to the very special interests that it was designed to protect the public against.

Governors are elected to govern: that means their job is to work with the legislative branch to enact laws and to enforce those laws. If Arnold Schwarzenegger can't do that and wants to be the proponent of ballot propositions, he should become a private citizen.

For these reasons, we propose the following reform of the initiative process:

- 1 Except when the Governor has declared a state of emergency, or upon the request of the Legislature in the form of a resolution passed by a majority vote of each house, a governor may not call a special election when the only

matters to be voted on are ballot measures.

2 The Governor shall not control or coordinate with any campaign committee sponsoring or opposing a ballot measure.

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