

SA2005 RF0079

May 24, 2005

Ms. Tricia Knight  
Initiative Coordinator  
Office of the Attorney General  
State of California  
PO BOX 994255  
Sacramento, CA 94244-25550

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Knight:

Pursuant to Article II, Section 10(d) of the California Constitution, we are submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by the proponent(s) of this measure pursuant to section 9608 of the California Elections Code. We have also included a check to cover the \$200 filing fee.

Thank you for your time and attention to this matter. If you require additional information or have any questions, please feel free to contact Dave Gilliard, 921 11<sup>th</sup> Street, Suite 400, Sacramento, CA 95814, (916)-444-1502.

Very truly yours, /

/Ray Haynes

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

## SECTION 1. TITLE

This measure shall be known and may be cited as the "California Border Police Act."

## SECTION 2. FINDINGS AND DECLARATIONS

(a) The federal government has not succeeded in stopping the flow of illegal immigration into the United States. It is estimated that nearly 3 million illegal immigrants reside in California with thousands more crossing our borders or entering from the coastline each month.

(b) California suffers a disproportionate burden from the federal government's failure to stem the tide of illegal immigration. Illegal immigration is a burden on California taxpayers who fund social services provided to illegal immigrants, such as healthcare, welfare, and public education. Moreover, taxpayers must pay the added expense of imprisoning approximately 18,000 illegal immigrants who have been convicted of other crimes. The total cost to taxpayers from illegal immigration is estimated at over \$9 billion annually. The federal government has not come close to reimbursing the state for these costs.

(c) More importantly, unchecked illegal immigration threatens our ability to protect our homeland from the threat of terrorism.

(d) State and local law enforcement have the sovereign authority to assist the federal government in the enforcement of federal immigration laws, but lack the resources, training, and time to do so.

(e) Therefore, the people of the State of California hereby enact the California Border Police Act to establish a state law enforcement agency dedicated to protecting our homeland security and assisting the federal government in the enforcement of federal immigration laws.

## SECTION 3. Article XXXVI of the California Constitution is added to read:

Sec. 1 (a) The people of the State of California find and declare that illegal immigration poses a grave and imminent danger to the security of the State and its residents.

(b) California, through its state and local law enforcement agencies, have the sovereign right and duty to assist the federal government in the enforcement of federal immigration laws.

(c) There is hereby created in state government, the Division of Homeland Security in the Office of Emergency Services. The Division shall also be known as the California Border Police. Its powers and duties are those prescribed in this Article and in

the California Border Police Act, and any subsequent amendment to the Act enacted pursuant to its provisions.

(d) The California Border Police shall assist the federal government in enforcing the immigration laws of the United States by arresting persons suspected of violating such laws pursuant to the authority provided by state law. After taking a person into custody, the California Border Police shall notify the federal immigration authority and transfer the person to the federal immigration authority within the time prescribed by federal law.

(e) The commissioner shall seek reimbursement from the federal government for the cost of arrest and detention.

(f) The Governor shall request an appropriation from the Legislature in the budget in an amount deemed necessary to fund the California Border Police, and the Legislature shall appropriate such funds. If the Legislature fails to make an adequate appropriation, the Governor may make supplemental appropriations pursuant to the authority of the Governor upon a declaration of a state of emergency under state law.

SECTION 4. Chapter 7.1 (commencing with section 8669.1) of Division 1 of Title 2 of the Government Code is added to read:

§8669.1(a) The Division of Homeland Security, also known as the California Border Police, shall carryout those duties prescribed by Article XXXVI of the California Constitution and this Chapter.

(b) The Governor shall appoint a commissioner, who shall serve at the pleasure of the Governor, to supervise the training, equipping, staffing, administration, management, and operation of the Division of Homeland Security, also known as the California Border Police.

(c) The commissioner shall organize the Division with the approval of the Governor and may arrange and classify the work of the division and may with the approval of the Governor create or abolish units thereof.

§8669.2(a) The California Border Police shall consist of the following members: the commissioner, deputy commissioners, captains, lieutenants, sergeants, and officers.

(b) Captains, lieutenants, sergeants, and officers shall be peace officers subject to the course of training required by Penal Code section 832.

(c) The commissioner shall also provide for specialized training to captains, lieutenants, sergeants, and officers in federal immigration law and procedures in order to carryout the duties of the California Border Police.

(d) The commissioner shall provide for the equipping of personnel including issuance of uniforms and identification badges in a manner similar to that of the California Highway Patrol.

(e) Captains, lieutenants, sergeants, and officers shall be hired, promoted, fired, and compensated in a similar manner as equivalent personnel in the California Highway Patrol.

§8669.3 The commissioner may create patrol districts for the efficient administration and enforcement of the California Border Police Act and may establish branch offices and detention facilities as he or she deems necessary.

§8669.4 The California Border Police shall have authority to use all state and local facilities necessary to carryout its duties under the Act, including the use of jails, prisons, and other correctional facilities.

§8669.5 The commissioner shall annually report to the Governor, the Legislature, and the director of the Office of Emergency Services on the performance of the division, its cost, and its attempts at recovering federal funds to offset the costs of arrest and detention.

§8669.6 The commissioner may adopt rules and regulations necessary to implement and carryout the duties of the California Border Police and the Act pursuant to and in accordance with the Administrative Procedures Act.

§8669.7 The commissioner, with the approval of the Governor, may enter into a memorandum of understanding with the Attorney General of the United States to authorize the California Border Police, or any part thereof, to perform any function of an immigration officer in relation to the criminal and civil enforcement of federal immigration law pursuant federal law. This provision shall not in any way limit the sovereign authority of the California Border Police to carryout its duties under Article XXXVI of the California Constitution or this Act.

§8669.8 In addition to the conditions of emergency established pursuant to section 8558, the Governor may also declare a state of emergency if he or she finds: (1) the Legislature failed to provide an adequate appropriation to maintain the California Border Police and to carryout the duties required by this Act; and (2) that the failure to maintain an adequate California Border Police will lead to an increase in illegal immigration that threatens the safety and welfare of the state and its residents. If the Governor declares such a state of emergency, he or she may exercise the power to expend any appropriation for support of the California Border Police Act as provided in section 8566. No other additional powers provided by Article 3 (commencing with section 8565) shall become applicable.

SECTION 5. Penal Code Section 836.4 is added to read:

§836.4 Notwithstanding section 836, a peace officer may arrest a person in obedience to a warrant, or pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, if the officer has probable cause to believe that the person to be arrested has committed any criminal violation of federal immigration law, whether or not in the officer's presence.

SECTION 6. GENERAL PROVISIONS

(a) The provisions of this Act, except for the Constitutional amendment enacted at the same time, may be amended by a statute that is passed by a vote of two-thirds of the membership of each house of the Legislature and signed by the Governor. All amendments to this Act shall be to further the Act and shall be consistent with its purposes.

(b) The provisions of this Act are severable. If any provision of this Act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.