FILED
08/31/2026
Superior Court of California,
County of Fresno
By: J. Xiong

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

CENTRAL DIVISION

COUNTY OF FRESNO, a political subdivision of the State of California; FRED VANDERHOOF, an individual; and MIKE DER MANOUEL, JR., an individual, Petitioners and Plaintiffs, v. STATE OF CALIFORNIA; JAMES A. KUS, in his official capacity of Fresno County Clerk/Registrar of Voters; and DOES 1 through 10, inclusive, Respondents and Defendants. FRESNO COUNTY RESIDENTS FOR BETTER ROADS AND SAFE STREETS, a ballot measure committee; VERONICA GARIBAY-GONZALEZ, JERRY DYER, LYNNE ASHBECK and JOAN EATON, individually and as proponents of the Fresno County Transportation Improvement Act initiative, and ROES 1 through 10, inclusive, Real Parties In Interest.	Case No. 26CU02436 ORDER AFTER HEARING DATE: August 28, 2026 TIME: 1:30 p.m. DEPT: 503

I.

FACTUAL BACKGROUND

There is little dispute regarding the facts before the court. On or about April 14, 2026 proponents submitted to the Registrar of Voters ("Registrar.") an initiative petition entitled "Fresno County Transportation Improvement Act." ("Petition.") The Petition would be a successor to the County of Fresno's ("County.") existing Measure C transportation tax and would impose a countywide transportation tax for a period of thirty years.

The Petition contained approximately 32,562 signatures. 21,909 valid signatures were required.

The Registrar processed the Petition pursuant to Elections Code sections 9114 and 9115. The process ultimately required examination of every signature, causing a delay in certification. On July 8, 2026 the Registrar concluded the examination of signatures and found the Petition qualified. At the Fresno County Board of Supervisors' ("Board.") next meeting on July 14, 2026 the Registrar certified the results of the examination. (Hereinafter the Petition will be referenced as the "Initiative.")

On July 14, 2026 the Board ordered a report on the fiscal impact of the Initiative pursuant to Elections Code sections 9111. Elections Code section 9111, subdivision (b) states, "[t]he report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition."

Because the Initiative involved the imposition of a tax, the Board could not simply adopt the Initiative pursuant to Elections Code section 9118, subdivision (a). (See Cal. Const., art. 13C, § 2, subd. (d).) Thus, regardless of the content of the report or its recommendations, the Board was required to submit the Initiative to the voters.

The legislative history of Elections Code section 9111 states the purpose of the option to order a report is to provide information about the effects of a proposed initiative "while the city or county still has the option to enact the initiative by local legislation." This was confirmed by the

Assembly Committee on Elections in their August 5, 2026, informational hearing on AB 1923 (Exhibit AA of Real Parties' Request for Judicial Notice). The report for the informational hearing on AB 1923 included the following language: "When a governing body lacks the authority to adopt an initiative outright, ordering a report on the measure cannot inform its decision of whether to adopt the initiative, because that option is unavailable. The report may still provide useful information, but its primary value in those circumstances is to inform voters rather than to assist the governing body in deciding whether to adopt the measure or refer it to voters. In such circumstances, the rationale for delaying the referral of the measure to the voters while awaiting the preparation of the report is less clear, since the report will still be completed and available to voters well in advance of the election at which they will consider the measure.[1]" (Exhibit AA of Real Parties' request for judicial notice, p. 4.)

On August 3, 2026 AB 1923 was amended and eventually signed into law by the Governor on August 6, 2026. The legislature took preemptive action to prevent lapse of the transportation funding given the Board's action in ordering the report.

Section 1 of AB 1923 states in full, "[a]ny Fresno County initiative petition that has been certified as sufficient by the Fresno County Registrar of Voters on or before July 8, 2026 shall be submitted, without alteration, to the voters at the November 3, 2026 statewide general election. The Fresno County Registrar of Voters and the Fresno County Board of Supervisors shall perform all acts that they would otherwise perform to place a qualified initiative measure on the ballot."

Section 2 declares that a special statute is necessary, and that a general statute cannot be made applicable within the meaning of article IV, section 16 of the California Constitution, "because of the unique fiscal circumstances facing the County of Fresno arising from the expiration of its local transportation tax."

[1] The court has been unable to locate another instance where a county in the State of California utilized Elections Code section 9111 to delay putting an initiative on the ballot when the initiative was required to be decided by the citizens of the county. Petitioners' reference to the Alameda County initiative entitled "the Alameda County living wage for all" is not an example of prior similar conduct. The initiative did not have to be decided by the voters. The board of supervisors had the option under Elections Code section 9118, subdivision (a), to enact the initiative into law. At oral argument, Petitioners were unable to identify any other time in California's history where a board of supervisors took similar action.

Section 3 declared AB 1923 an urgency statute citing the need to "allow the County of Fresno to place a transportation funding measure before the voters at the earliest possible statewide election in 2026, before the expiration of its local transportation tax."

The report was presented to the Board on August 11, 2026. The recommendation was that the Initiative be placed on the ballot for next available statewide election. As mentioned above, that was the only possible recommendation since the Board was required by law to place the Initiative on the ballot. The report played no role in that determination.

Elections Code section 1405, subdivision (a) states in part, "[e]xcept as provided in subdivision (b), the election for a county initiative that qualifies pursuant to Section 9118 shall be held at the next statewide election occurring not less than 88 days after the date of the order of election." The next available statewide election occurring not less than 88 days after August 11, 2026 was March 7, 2028. The Board ordered the Initiative be placed on the ballot for the March 7, 2028 statewide election.

It is noteworthy that August 11, 2026 is 84 days from the November 3, 2026 statewide election. Had the Board wanted to ensure the citizens of the County had the ability to exercise their right to vote on the Initiative, they could have simply ordered the completion of the report by August 7, 2026. While the report can take up to 30 days, there is no requirement in the law the report has to take 30 days.

After the Governor signed AB 1923 the Registrar notified the Board he will place the Initiative on the ballot for the November 3, 2026 statewide election. This case ensued.

II.

DISCUSSION

White v. State of California (2001) 88 Cal.App.4th 298 succinctly states the principles at issue in this case. The court in *White* wrote at pages 718-719:

> It is well settled that article IV, section 16 does not prohibit the Legislature from enacting statutes that are applicable solely to a particular county or local entity. (Citations omitted) By its express terms, article IV, section 16 prohibits this type of legislation only if "a general statue can be made applicable." (Citations omitted) In determining whether "a general statute can be made applicable," the issue is not whether the Legislature could conceivably enact a

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> similar statute affecting every locality. (Citations omitted) Rather, it is whether "there is a rational relationship between the purpose of the enactment ... and the singling out of [a single] ... county affected by the statute." (Citations omitted) The legislature's determination that this rational relationship exists is entitled to great weight and will not be reversed unless the determination is arbitrary and without any conceivable factual or legal basis.

AB 1923, Section 2, expressly states the legislature considered the question of whether a general statue could be made applicable. It concluded it could not. The legislature also concluded in AB 1923, Section 2, that a special statute was necessary. Those conclusions are entitled to great weight and, as stated in *White*, should not be reversed unless the conclusions were arbitrary and without any conceivable factual or legal basis.

The issue confronting the Legislature can be stated relatively simply. The Board's use of Elections Code section 9111 resulted in a delay in submitting the Initiative to the voters. That delay had potentially significant financial consequences for the County. As reflected in the legislative materials, Fresno County and its 15 cities stood to lose well over $100 million annually in transportation funding. (Ex. AA to RPI's Req. for Jud. Notice, p. 3.) These circumstances provided the impetus for AB 1923.

Petitioners rely on *Ventura County Harbor District v. Board of Supervisors of the County of Ventura* (1930) 211 Cal. 271 and *Consolidated Printing & Publishing Co. v. Allen* (1941) 18 Cal.2d 63 to argue that AB 1923 must be invalidated because the Board could have reached the same result under the existing Elections Code. Petitioners' interpretation of the holdings of those cases is too broad and would lead to a bizarre result.

Assume the following hypothetical facts: The legislature enacts general laws governing how initiatives can go from petition to ballot measure. A board of supervisors misuse those general laws in a way that has no precedence in California. The misuse results in the intent of the general laws being thwarted and a certified initiative being kept off the next statewide ballot. The legislature passes a special law to prevent the misuse.

It would be a strange result if the board of supervisors could successfully claim the special statute enacted to rectify the misuse was unconstitutional because the board could have reached the same result mandated by the special law if they simply refrained from misusing the general law. In effect the Petitioners are asking the court to find AB 1923 unconstitutional because they didn't have to delay the election by ordering the report, they could have just put the Initiative on the November 3, 2026 ballot. Neither *Ventura County Harbor District* nor *Consolidated Printing and Publishing Co.* support such a conclusion.

The legislature is entitled to great weight in the determination of whether the Board's actions is this matter constitute a misuse of the Elections Code. As stated above, the legislative history of Elections Code section 9111 and AB 1923 make clear ordering a report was intended to be used when it would help local governmental agencies determine whether to enact an initiative into law without submitting it to the voters. It was not intended to delay placing a qualified initiative on the ballot where the board of supervisors was mandated by law to allow the citizens of the county to decide the issue. The court affords the legislature, as a co-equal branch of government, the deference it is entitled to in deciding if such conduct is a misuse of the statute and/or whether a special statute is required to address the misuse.

Petitioners correctly point out the report can provide the ancillary benefit of informing the Board and the electorate about the Initiative and assist in determining whether to support or oppose it. Indeed, the legislative history of AB 1923 addresses that fact. However, it is worth noting the Board does not need Elections Code section 9111 to obtain such a report. The Board has the authority to require a department under its control to prepare a report if they believe one is needed. Furthermore, the report prepared in this case was completed well in advance of the printing of any election materials by the Registrar. AB 1923 does not prevent the Board from obtaining a report on the Initiative or using it in the manner it believes is appropriate.

The legislature was confronted with a unique scenario with potentially significant consequences for one of the largest counties in the State of California. AB 1923 focused only on Fresno County because the situation being addressed only concerned Fresno County.

The legislature designated AB 1923 as an urgency statute, which is one that is "necessary for immediate preservation of the public peace, health, or safety," and the necessity must be supported by a statement of facts "set forth in one section of the bill." (Cal. Const., art. IV, § 8, subd. (d).) Petitioners challenge the legitimacy of the legislature's designation.

The legislature's urgency determination, found in Section 3 of the statute, "must be given great weight and every presumption made in favor of [the statute's] constitutionality." (*Azevedo v. Jordan* (1965) 237 Cal.App.2d 521, 526.) Given the impending lapse of the transportation tax, the legislature and respondents have sufficiently articulated urgency to preserve public peace, health or safety.

III.

FACTUAL FINDINGS

The court makes the following factual findings:

1. The Initiative was required to be placed on the ballot after certification because it involved the implementation of a tax.
2. The Board's decision had the result of preventing the citizens of Fresno County from exercising their democratic right to vote on an issue of significant financial consequence to the County.
3. The County's use of Elections Code section 9111 in the manner described above was unique and counter to the intent of the legislature when it passed Elections Code sections 1405, 9111, and 9118.
4. The legislature had a sufficient factual and legal basis for determining a general statute could not be made applicable and that a special statue was required.
5. The legislature had sufficient factual and legal basis for declaring AB 1923 an urgency statute.

IV.

CONCLUSION

The legislature was confronted with a unique situation that had potentially significant financial consequences for the County and the State. The legislature determined a general law was not applicable and enacted AB 1923 to address the issue. There is a rational relationship between the purpose of AB 1923 and the fact it singles out the County of Fresno. For the reasons stated above, this court will not reverse the legislature's determination.

V.

ORDER

1. The court declares AB 1923 is valid and enforceable;
2. The court declares AB 1923 does not violate article IV, section 16, subdivision (a) or article I, section 7, subdivision (a) of the California Constitution;
3. Petitioner's request for a peremptory writ of mandate commanding the State of California to refrain from enforcing, implementing, or giving effect to AB 1923 is denied;
4. Petitioner's request for a peremptory writ of mandate directing the Registrar of Voters to refrain from placing the Initiative on the ballot for the November 3, 2026 statewide general election is denied;
5. Any and all requests for temporary restraining orders and/or preliminary injunctions are denied as moot given orders 1 and 2;
6. Petitioner's request for a permanent injunction is denied;
7. All of the remaining requests by Petitioner for declaratory relief are denied.

IT IS SO ORDERED.

DATED: August 31, 2026

Jonathan Skiles

HON. JONATHAN SKILES
JUDGE OF THE SUPERIOR COURT

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