

Date of Hearing: April 15, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 1148 (Beth Gaines) – As Introduced February 27, 2015

SUBJECT: Republican county central committees: Placer County.

SUMMARY: Requires Republican county central committee members in Placer County to be elected by supervisorial district, and provides for seven members to be elected from each district.

EXISTING LAW:

- 1) Requires, in each county containing fewer than five Assembly districts, that county central committee members for the Republican Party be elected by supervisorial district. Provides that the number of members elected from each district shall be determined pursuant to a specified formula.
- 2) Requires, in each county containing more than four and less than 20 Assembly districts, that county central committee members for the Republican Party be elected by Assembly districts, with six members elected from each district.
- 3) Requires, in each county containing more than 20 Assembly districts, that county central committee members for the Republican Party be elected by Assembly districts, with seven members elected from each district that is wholly or partially within the county. Provides that in an Assembly district that lies only partially within the county, the seven members shall be elected by the voters residing in the portion of the district contained within the county.
- 4) Establishes special rules that govern the election of county central committee members for the Republican Party from Sacramento, San Bernardino, and Santa Clara counties and the City and County of San Francisco, notwithstanding the generally applicable procedures outlined above.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

AB 1148 is needed to update the Elections Code to conform to the current method of electing members to the Placer County Republican Central Committee. This method was approved by the Placer County Registrar of Voters and the Placer County Council in 2012. It was utilized in the last Central Committee elections in 2012 and the members elected at that time are currently serving their four-year terms. This bill was unanimously endorsed by the current Central Committee in 2015 and the concept was also approved unanimously by the former Central Committee in 2012. Furthermore, this bill (and the current election method that

this bill would codify) conforms to the explicit language of the Placer County Republican Party Bylaws.

The formula in Elections Code Section 7400, as applied to Placer County, would create *unconstitutional malapportionment* that would violate Party Bylaws. That formula would have awarded only two seats out of twenty-one to District Five, the supervisorial district that encompasses 83% of Placer County, even though the number of registered Republican voters in District Five is not very different from District Two, which would have received six of the twenty-one seats. There is no justification for such malapportionment, especially when the Party Bylaws do not allow it and the Central Committee is opposed to it.

Placer County has five supervisorial districts with approximately equal populations, so the Placer County Republican Central Committee would like to have the same number of Committee members elected from each district. Seven members per district is a convenient number that ensures broad representation from throughout Placer County. It also ensures that anyone who would have been elected under the old rules will also be elected under the new rules.

- 2) **Placer County Republican Central Committee:** Because Placer County contains fewer than five Assembly districts, existing law requires Republican county central committee members to be elected in the county by supervisorial district, with the number of members to be elected from each district determined by the number of votes received by the Republican candidate for Governor (if any) in the last gubernatorial election.

Based on the election results from the November 2014 gubernatorial election, existing law would require four Republican county central committee members to be elected from the first supervisorial district, and five Republican county central committee members to be elected from each of the other supervisorial districts, for a total of 24 elected members of the Placer County Republican Central Committee. This bill will increase the total number of members to be elected to the Placer County Republican Central Committee to 35, with seven members being elected from each supervisorial district.

- 3) **Internal Governance:** In *Eu v. San Francisco County Democratic Central Committee* (1989), 489 U.S. 214, the United States Supreme Court examined the right of a state to impose laws relating to the internal affairs of political parties. The Court found that laws burdening the associational rights of political parties and their members must serve a compelling state interest. Therefore, because a state has a compelling interest in preserving the integrity of its election process, it may properly enact laws that interfere with a political party's internal affairs when necessary to ensure that elections are fair and honest. (For example, a state may properly impose certain eligibility requirements for voters in the general election, even though they limit the ability of political parties to garner support and members, where such requirements are necessary to ensure that elections are fair and honest.) However, a state cannot justify regulating a party's internal affairs without showing that such regulation is necessary to ensure an election that is orderly and fair.

In *Eu*, the Court reiterated that a political party's determination of the structure which best

allows it to pursue its political goals is protected by the Federal Constitution (*Tashjian v. Republican Party of Connecticut* (1986), 479 U.S. 208 at 224) and further held that freedom of association also encompasses a political party's decisions about the identity of, and the process for electing, its leaders. Thus, unless the state can show that the particular internal party structure would interfere with the integrity of the electoral process or some other compelling state interest, the political parties have a constitutional right to be free from state regulations in the matter of their internal affairs.

In 2009, the California Court of Appeals for the Second District, reaffirmed the Supreme Court's holding in *Eu* in the case of *Wilson v. San Luis Obispo County Democratic Central Committee* (2009) 175 Cal. App. 4th 489. The *Wilson* case dealt with a situation where the San Luis Obispo County Democratic Central Committee had adopted bylaws regarding the removal of central committee members and the membership of the central committee that were in conflict with provisions of the Elections Code. The court in *Wilson* ruled in favor of the San Luis Obispo County Democratic Central Committee, finding that it had the right to adopt those conflicting bylaws pursuant to *Eu*.

In light of the constitutionally protected rights of political parties, the Legislature frequently has changed provisions of the Elections Code at the request of political parties to reflect those parties' desired methods of electing members to party central committees (see "Previous Legislation" below).

- 4) **Previous Legislation:** AB 1200 (Ma), Chapter 8, Statutes of 2012, changed the manner in which Republican county central committee members are elected in the City and County of San Francisco, and the manner in which Democratic county central committee members are elected in Alameda and Sacramento counties and the City and County of San Francisco, among other provisions.

AB 1396 (Torres), Chapter 392, Statutes of 2009, repealed various provisions of the Elections Code governing the membership and operations of the state central committee of the Democratic Party of California, and instead required that the standing rules and bylaws of the Party govern the membership and operations of the state central committee.

AB 965 (Anderson), Chapter 60, Statutes of 2007, provided that the membership of the state central committee of the California Republican Party shall be as set forth in the standing rules and bylaws of the California Republican Party, among other provisions.

AB 1054 (Bogh), Chapter 65, Statutes of 2005, required Republican central committee members in San Bernardino County to be elected by supervisorial districts as specified, instead of by Assembly districts.

SB 1436 (Oller), Chapter 257, Statutes of 2002, required Republican central committee members in Sacramento and Santa Clara counties to be elected by supervisorial districts as specified, instead of by Assembly districts.

REGISTERED SUPPORT / OPPOSITION:

Support

Placer County Republican Party (sponsor)

Opposition

None on file.

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