

Date of Hearing: March 25, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 370 (Brown) – As Introduced February 17, 2015

SUBJECT: Election campaigns: candidate misrepresentation.

SUMMARY: Expands the list of activities that constitute a crime of candidate misrepresentation. Specifically, **this bill** specifies that a person is guilty of a misdemeanor if, with the intent to mislead the voters, he or she assumes, pretends, or implies by his or her campaign materials that he or she is the incumbent of a public office, or has been acting in the capacity of a public officer, when that is not the case.

EXISTING LAW: Provides that a person is guilty of a misdemeanor who, with the intent to mislead the voters in connection with his or her campaign for nomination or election to a public office, or connection with the campaign of another person for nomination or election to a public office, assumes, pretends, or implies, by his or her statements or conduct, that he or she is the incumbent of a public office, or that he or she is or has been acting in the capacity of a public officer, when that is not the case. Provides that any violation may be enjoined in a civil action brought by any candidate for the public office involved.

FISCAL EFFECT: Unknown. State-mandated local program: contains a crimes and infractions disclaimer.

COMMENTS:

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

I have had numerous constituent complaints about the false and or misleading advertising they receive or view during campaigns. Especially, signs that mislead the public as to a candidate's occupation or profession. Specifically, professing to be the incumbent, when in fact they are the challenger. This is not only false and misleading but should be illegal. It is time that we place some reasonable limits on false and misleading campaign materials, including signage.

2) **Misrepresentation By Candidates:** Current law provides that it is a crime for a person to knowingly try to mislead voters by his or her statements or conduct by assuming, pretending, or implying that he or she is an incumbent of a public office or has been acting in the capacity of the public officer, when that is not the case. A violation of this law is a misdemeanor. This bill expands current law to include misrepresentations in a candidate's campaign materials.

According to author's office, this clarification is needed because candidate misrepresentation is occurring and most recently occurred in the author's district during the November 2014 general election. The author's office provided the committee with a picture of a campaign sign which can be interpreted to be a false claim of incumbency by a challenger. Despite this district example, however, the author's office was unable to provide the committee with further examples demonstrating a statewide problem.

Moreover, it can be argued that campaign materials, such as campaign signs, are already included within the existing prohibition against statements or conduct that falsely suggests that a person is an incumbent. Nevertheless, this bill will strengthen and clarify current law by explicitly including campaign materials and could help prevent candidate misrepresentation in future elections.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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