

Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1316 (Harkey) – As Introduced: February 22, 2013

SUBJECT: Election ballots: identical candidate names.

SUMMARY: Eliminates the practice of permitting candidates to select a number to be printed alongside their name on ballot materials if a candidate with a similar name files for the same office, and instead requires the elections official to assign a number to candidates and for the ballot order of the candidates to be chosen at random. Specifically, this bill:

- 1) Requires the elections official, if two or more candidates with similar names file nomination papers for the same office, to assign each such candidate a number based on the order in which the candidates filed their nomination papers. Requires that the first candidate be assigned the number "1", with each subsequent candidate with a similar name being assigned the next number in numerical sequence. Repeals a provision of law that allows each candidate to choose the number that is used to distinguish himself or herself from other candidates.
- 2) Eliminates the requirement that the candidates' distinguishing numbers and certain warning language must be printed in boldface type.
- 3) Requires the elections official to conduct a randomized drawing of the numbers assigned to the candidates in order to determine the order in which candidates' names will appear on the ballot.

EXISTING LAW:

- 1) Authorizes a person who is a candidate for any office to file a statement with the county elections official attesting to his or her belief that some other person with a name so similar as to be confused with his or her name has filed or will file a nomination paper for the same office. Provides that the statement that shall be in substance as follows:

"I _____, believe that some other person, whose name is so similar to mine that it may be confused with mine, has filed or will file a nomination paper for the same office for which I have filed a nomination paper, and I therefore request and direct that number _____ be printed with my name on the ballot as a distinguishing mark.

 Name
 Candidate for the office of _____"

- 2) Requires the number chosen by the candidate to be printed in large boldface type at the left of the name on the ballot.

- 3) Provides that if two or more candidates for the same office designate the same distinguishing number, the first candidate who filed his or her nomination papers shall have the number, and other candidates who designated the same number may file papers designating other distinguishing numbers.
- 4) Requires the elections official, in addition to the designated number or numbers to place on the ballot when the above conditions are met, to place on the ballot, immediately following the designation of the office and immediately preceding the names of the candidates to be voted upon, the following warning in boldface type:

"Warning! There are two (or applicable number) candidates for this office with identical names."

- 5) Requires the warning listed above to be included, in boldface type and in a prominent manner, on any sample ballot, ballot pamphlet, or other mailing sent by the county elections official, prior to the election, to persons eligible to vote for this office.

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

COMMENTS:

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

Election Code 13118 has proven to be problematic for city officials and candidates for a couple of reasons:

First, the statute fails to state which numbers are eligible to be placed next to the names of identically-named candidates on the ballot. Because a candidate may choose their own number, the City of San Clemente experienced difficulty when candidates began using this process to vie for preferred placement on the ballot, bringing up questions pertaining to negative numbers, a number's length, or whether or not "0" is a number.

AB 1316 would specify that the distinguishing mark would be assigned in the same order that the candidates file their nomination and statement. The elections official will make their assignments using the number "1," and continue in numerical sequence until each candidate has been distinguished from the others.

Further, AB 1316 will remove the requirement that large, boldface type be used to warn the voter, and require a drawing of numbers to determine positioning on the ballot.

AB 1316 is necessary because clarification of Election Code 13118 will allow for a smoother and more cost-effective election process for candidates, election officials – and most importantly, voters.

- 2) Numerical Specifications: Existing law requires the elections official, whenever there are two candidates with similar or identical names, to print a number that distinguishes one candidate from the other, in large boldface type to the left of the candidates name on the ballot. In addition to printing the number next to the candidates name, a warning message is also

required to be prominently printed in boldface type preceding the candidates' names. Not all equipment used for the printing of election materials is designed to accommodate boldface typesetting or varying font sizes. Counties facing this requirement for the first time may encounter problems absorbing this additional expense. This measure removes the requirement that large and boldface type be used to print numbers and warning messages on sample ballots, ballot pamphlets, or other mailings sent by the elections official prior to the election.

- 3) Suggested Amendment: The California Association of Clerks and Election Officials have requested an amendment to subdivision (b) of Section 13118, to require the distinguishing marks to be placed to the *right* of the candidates' names rather than the left. The author has agreed to accept this amendment.

- 4) State Mandates: The 2011-2012 and 2012-2013 state budgets included the suspension of various state mandates as a mechanism for cost savings. Included on the list of suspensions were all six existing elections-related mandates. All the existing elections-related mandates have been proposed for suspension again by the Governor in his budget for the 2013-2014 fiscal year. The Committee may wish to consider whether it is desirable to create new election mandates when current elections-related mandates are suspended. On the other hand, because this bill only imposes new requirements on local governments when there are two or more candidates with similar names on the ballot for the same office, which is relatively rare, the costs of this state mandate should be minimal.

REGISTERED SUPPORT / OPPOSITION:

Support

City Clerks Association of California (sponsor)
California Association of Clerks and Election Officials
League of California Cities

Opposition

None on file.

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