

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1419 (Elections & Redistricting Committee) – As Introduced: March 20, 2013

AS PROPOSED TO BE AMENDED

SUBJECT: Presidential general elections: party qualifications.

SUMMARY: Establishes a process for a political body to qualify as a political party for the purposes of having that party's Presidential and Vice Presidential candidates appear on the presidential general election ballot. Specifically, this bill:

- 1) Provides that a political party is qualified to participate in a presidential general election if either of the following conditions is met:
 - a) If, on or before the 102nd day before a presidential general election, it appears to the Secretary of State (SOS), as a result of examining and totaling the statement of voters and their political affiliations transmitted to the SOS by county elections officials, that voters equal in number to at least one percent of the entire vote of the state at the last preceding gubernatorial election have declared their intention to affiliate with that party; or,
 - b) If, on or before the 135th day before a presidential general election, there is filed with the SOS a petition signed by voters equal in number to 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in the presidential general election.
- 2) Requires county elections officials to send a summary statement of the number of voters in the county to the SOS not less than 102 days prior to each presidential general election with respect to voters registered before the 123rd day before the presidential general election.
- 3) Requires a group of electors that are attempting to qualify a new political party to indicate on a specified notice to the SOS whether those electors intend to qualify the party for the next primary election or the next presidential general election.
- 4) Provides that a political party that qualifies pursuant to the above procedure to participate in a presidential general election does not have the ability to use the general election ballot for the purpose of electing state party or county central committee officers.
- 5) Makes conforming and corresponding changes.

EXISTING LAW:

- 1) Provides that a political party is qualified to participate in a primary election under any of the following conditions:

- a) If, at the last preceding gubernatorial election, there was polled for any one of its candidates for any office voted on through the state, at least two percent of the entire vote of the state;
 - b) If, on or before the 135th day before any primary election, it appears to the SOS, as a result of examining and totaling the statement of voters and their political affiliations transmitted to the SOS by county elections officials, that voters equal in number to at least one percent of the entire vote of the state at the last preceding gubernatorial election have declared their intention to affiliate with that party; or,
 - c) If, on or before the 135th day before any primary election, there is filed with the SOS a petition signed by voters equal in number to 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that primary election.
- 2) Requires county elections officials to send a summary statement of the number of voters in the county to the SOS at the following times:
- a) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election;
 - b) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election;
 - c) Not less than 7 days prior to the primary election, with respect to voters registered before the 14th day prior to the primary election;
 - d) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election;
 - e) Not less than 7 days prior to the general election, with respect to voters registered before the 14th day prior to the general election; and,
 - f) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.
- 3) Requires each political party to have its qualifications reviewed by the SOS upon the occurrence of the gubernatorial election. Provides that a party that does not meet the standards for qualification, as described above, shall be prohibited from participating in any primary election. Requires a party that loses qualification, but seeks to regain that qualification, to file a notice with the SOS indicating that it intends to regain qualification.
- 4) Provides that no party shall be recognized or qualified to participate in any primary election if the party either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets the overthrow by any unlawful means of, or directly or indirectly carries on, advocates, teaches, justifies, aides, or abets a program of sabotage, force and violence, sedition or treason against, the government of the United States or of California. Requires the SOS, with

the advice and consent of the Attorney General, to determine which parties are disqualified pursuant to these provisions.

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

COMMENTS:

- 1) Proposed Amendments: In order to correct a technical error in this bill, committee staff recommends the following amendment:

On page 6, line 23, strike out "party" and insert:

body

Additionally, the SOS, which is the source of this bill, indicates that in light of the amount of time needed to process petitions for a political body that is attempting to become a qualified political party, it is necessary to move back the deadline for those petitions to be submitted pursuant to this bill so that the determination of whether the petition was successful can be made sufficiently in advance of the election. In order to address this concern, the SOS has suggested the following amendment:

On page 7, line 11, strike out "102nd" and insert;

135th

This committee analysis reflects these proposed amendments.

- 2) Purpose of the Bill: Existing law requires a political body to qualify as a political party 135 days before the primary election if it wishes to place candidates on the ballot, even if the party only wants to participate in the presidential general election. Because California currently holds its primary elections in June, this policy effectively requires a political body to meet the qualification threshold to become a recognized political party by January in order for that party to have its Presidential candidate appear on the general election ballot.

Last year, two political bodies that were attempting to qualify as political parties filed a lawsuit against the SOS challenging this deadline for qualifying to place their candidates on the presidential general election ballot. In the lawsuit (California Justice Committee v. Bowen (2012) Case No. CV 12-3956 PA), the political bodies alleged that the early deadline violated their First and Fourteenth Amendment rights. The US District Court agreed, and enjoined the SOS from enforcing the requirement that a political party had to qualify by 135 days before the primary election in order to qualify to appear on the November presidential general election. At the same time, the Court refused to impose an alternative deadline.

This bill establishes a new deadline for political bodies that are seeking to become qualified political parties for the purposes of having a candidate appear on the presidential general election ballot. Under the provisions of this bill, the deadline for a political party to qualify to have its candidate appear on the presidential general election ballot would be 102 days before the general election if the party is qualifying based on the number of voters who

registered with that political party, or 135 days before the presidential general election if the party is qualifying based on signatures contained on a petition. These deadlines were established because they fall sufficiently in advance of deadlines for printing the voter information guide and ballots to allow elections officials to prepare those materials accordingly.

This bill was introduced at the request of Secretary of State Debra Bowen.

3) Arguments in Support: In support of this bill, Secretary of State Debra Bowen writes:

Recent court action holds that requiring political bodies seeking to become political parties to qualify prior to the presidential primary election even if they have no intention of taking part in that election, is not appropriate. Instead, a court determined that a separate process must be established to allow political bodies that only want to take part in the presidential general election to qualify as political parties closer to the November election.

AB 1419 accomplishes that goal and promotes the values of democracy, fairness, and ballot access in an equitable way.

4) State Mandates: The 2011-12 and 2012-13 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 2013-14 fiscal year.

This bill would establish a new state-mandated local program by requiring county elections official to prepare one additional summary statement of the number of voters in the county in each four-year period. This summary statement is necessary in order for the SOS to determine which political parties are qualified to have their Presidential and Vice Presidential candidates appear on the presidential general election ballot. Given the fact that a federal court has already enjoined the SOS from enforcing the existing deadline for a political party to qualify in order to have its candidates for President and Vice President appear on the presidential general election ballot, it may be fiscally prudent to avoid further litigation by modifying that deadline, notwithstanding the potentially reimbursable state-mandated costs.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen

Opposition

None on file.

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