

Date of Hearing: June 10, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1043 (Torres) – As Introduced: February 18, 2014

SENATE VOTE: 36-0

SUBJECT: Elections: in-lieu-filing fee and political party qualification petitions: penal provisions.

SUMMARY: Provides that a person who is found guilty of fraud within the context of circulating or filing of an in-lieu-filing fee petition or political party qualification petition is subject to the same penalties as a person found guilty of other forms of petition fraud. Specifically, this bill:

- 1) Defines the term "political party qualification petition" to mean a petition circulated to qualify a political party.
- 2) Provides that a person who is found guilty of fraudulently circulating an in-lieu-filing fee petition or political party qualification petition is subject to the same penalties as a person found guilty of other forms of petition fraud.

EXISTING LAW

- 1) Defines "party" as a political party or organization that has qualified for participation in any primary or presidential general election.
- 2) Specifies that every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his/her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by law, punishable by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment for 16 months or two or three years, or by both that fine and imprisonment. Specifically, these duties include the circulation of nomination papers, declarations of candidacy, and initiative, referendum, and recall petitions.
- 3) Makes it a crime, subject to various criminal penalties, to engage in specified misconduct in connection with the circulation of nomination papers, declarations of candidacy, and initiative, referendum, and recall petitions, including the following:
 - a) Defacing or destroying papers or petitions;
 - b) Failing to file papers or petitions;
 - c) Knowingly submitting false papers or petitions;
 - d) Intentionally misrepresenting the contents of papers or petitions;

- e) Giving another person money or other valuable consideration in exchange for that person's signature on papers or petitions;
 - f) Signing fictitious names to papers or petitions; and,
 - g) Making false certifications or affidavits concerning papers or petitions.
- 4) Provides that a candidate may submit a petition containing signatures of registered voters in lieu of paying a filing fee as follows:
- a) For the office of California State Assembly, 1,500 signatures;
 - b) For the office of California State Senate and the United States House of Representatives, 3,000 signatures;
 - c) For candidates running for statewide office, 10,000 signatures; and,
 - d) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.
- 5) Provides that a party is qualified to participate in any 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 throughout 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 Secretary of State (SOS), as a result of examining and totaling the statement of voters and their political affiliations transmitted to him or her by the 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 at least 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.

FISCAL EFFECT: According to the Senate Appropriations Committee, no additional state costs to the SOS, and unknown, non-reimbursable local enforcement costs.

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

SB 1043 clarifies that people who commit fraud involving “in-lieu-filing fee petitions” and “political party qualification petitions” are subject to the same felony penalties that apply to people found guilty of committing other forms of petition fraud.

People convicted of committing fraud relative to nomination papers, declarations of candidacy, initiatives, referenda, and recall petitions are subject to specific felony penalties. However, the law does not clearly subject people who forge an in-lieu filing fee petition or political party qualification petition to those same felony penalties.

2) Argument in Support: Secretary of State Debra Bowen, who is the sponsor of this measure, writes in support:

Petition fraud is a felony and the law sets specific penalties for people convicted of committing fraud involving nomination papers, declarations of candidacy, initiatives, referenda, and recall petitions. However, in-lieu filing fee petitions and political party qualification petitions are not specifically mentioned in the penalty provisions of the code, meaning people who commit fraud involving these petitions could go unpunished.

This lack of clarity has impacted recent Secretary of State investigations. Though the evidence in two cases indicated a person had committed petition fraud, convictions using these penalty provisions could not be obtained because the law does not specifically address the kind of petition in question.

REGISTERED SUPPORT / OPPOSITION:Support

Secretary of State Debra Bowen (Sponsor)
California Association of Clerks and Election Officials

Opposition

Coalition for Free & Open Elections (unless amended)

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