

Date of Hearing: May 1, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 1829 (Committee on Elections and Redistricting) – As Introduced March 27, 2019

**SUBJECT:** Elections.

**SUMMARY:** Makes various minor, technical, and corresponding changes to the Elections Code. Specifically, **this bill:**

- 1) Permits a person authorized by a candidate to submit an in-lieu petition to the elections official containing signatures of registered voters in-lieu of a filing fee on behalf of the candidate, instead of only allowing a candidate to submit an in-lieu petition.
- 2) Deletes provisions of law that require a candidate to *request* an elections official to have signatures on an in-lieu petition count towards the nomination paper, and instead provides that signatures on an in-lieu petition count toward the required number of signatures on a nomination paper.
- 3) Clarifies that a candidate who takes the oath of office pursuant to existing law when filing their declaration of candidacy must also take the oath of office again before entering into the duties of office if the candidate is elected pursuant to existing law. Clarifies that the oath of office required pursuant to existing law may be administered by any person authorized by law to administer an oath, as specified.
- 4) Requires any voter that files a written request for a recount with the elections official responsible for conducting the election to submit the request no later than 5 p.m. on the fifth day after the completion of the canvass of election results, instead of requiring the request to be submitted within five days of completion of the official canvass of election results.
- 5) Clarifies that election-related nomination papers and petitions must be filed with the elections official of the jurisdiction *for which* the documents or petitions were circulated, instead of requiring the documents be filed with the elections official of the jurisdiction *in which* the documents or petitions were circulated, as specified.
- 6) Requires the list of qualified political party endorsed candidates that is sent to an elections official to be sent by certified letter postmarked no later than 83 days before an election.
- 7) Makes clarifying, technical, and corresponding changes.

**EXISTING LAW:**

- 1) Requires a candidate for public office to file a declaration of candidacy, as specified.
- 2) Permits a candidate to submit a petition (commonly referred to as an “in-lieu petition”) to the elections official containing signatures of registered voters in lieu of paying a filing fee, as specified.

- 3) Permits a candidate, if the candidate's in-lieu-filing-fee petition contains the requisite number of valid signatures pursuant to existing law to request the elections official to accept the in-lieu petition instead of filing nomination papers.
- 4) Requires candidates for specified offices to take an oath of office when filing their declarations of candidacy with the oath administered by the elections official, the district secretary, or any person designated by the county elections official or the district secretary.
- 5) Requires a public officer to take an oath of office following the election or appointment of that officer, and before the officer enters into the duties of office, as specified.
- 6) Permits any voter, within five days of completion of the official canvass of election results, to file a written request for a recount with the elections official responsible for conducting the election, as specified.
- 7) Provides procedures for the circulation of various elections-related documents and petitions (including candidate nomination documents and initiative and referendum petitions) for signatures, and requires those documents and petitions to be filed with the elections official, as specified.
- 8) Permits a qualified political party to submit a list of all candidates for voter-nominated office that the party has endorsed to each county elections official, as specified. Requires a county elections official, if the list is submitted not later than 83 days before the election at which the candidates will appear on the ballot, to print these political party endorsements in the county voter information guide.
- 9) Establishes a list of election dates for the state of California, as specified.
- 10) Authorizes two different pilot programs that allow certain elections to be conducted as all-mailed ballot elections, subject to certain conditions, as specified. Requires both pilot programs to sunset on January 1, 2021.

**FISCAL EFFECT:** None. This bill is keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

- 1) **Purpose of the Bill:** This is one of the Assembly Elections & Redistricting Committee's annual omnibus bills, containing various minor, technical, and conforming changes to provisions of the Elections Code. This bill includes changes requested by the California Association of Clerks and Election Officials (CACEO) and otherwise identified by committee staff.
- 2) **Candidate Documents:** In order to appear on the ballot, a candidate for public office generally must file a declaration of candidacy, and may be required to file nomination papers signed by registered voters and pay a filing fee, as specified. When candidates for an office are required to pay a filing fee, existing law generally permits a candidate to submit a petition (commonly referred to as an "in-lieu petition") to the elections official containing signatures of registered voters in lieu of paying that fee, as specified.

While the Elections Code generally allows authorized representatives to submit candidacy

documents on behalf of the candidate, state law is silent on whether in-lieu petitions must be filed by the candidate, or may be filed by a designated representative of the candidate. This bill permits a person authorized by the candidate to return in-lieu petitions to the elections official.

For offices that require a candidate to file nomination papers with signatures of voters and to pay a filing fee, state law generally allows a candidate to have any signatures on in-lieu petitions count towards the number of voters required to sign the nomination paper. In order to have signatures on an in-lieu petition count toward the nomination paper requirements, the candidate must request that the elections official use the signatures on the in-lieu petition for that purpose.

County elections officials believe that requiring a candidate to “request” that the signatures on the in-lieu petition be used to meet the nomination signature requirement is unnecessary. Accordingly, this bill deletes the requirement for a candidate to request the elections official to accept the signatures on the in-lieu petition for this purpose. These changes were requested by the CACEO.

- 3) **Oath of Office:** Elections Code Section 10512 requires candidates for specified offices to take an oath of office when filing their declaration of candidacy, with the oath administered by the elections official, the district secretary, or any person designated by the county elections official or the district secretary. Additionally, Government Code Section 1360 generally requires a public officer to take an oath of office following the election or appointment of that officer, and before the officer enters into the duties of office.

This bill aligns these procedures and clarifies who is authorized to administer the oath of office after an election or appointment. Specifically, this bill clarifies that candidates who take the oath of office pursuant to Elections Code Section 10512 when filing their declaration of candidacy must also take the oath of office again before entering into the duties of office if they are elected. Additionally, this bill clarifies that the oath of office required by Elections Code Section 10512 may be administered by any person authorized by law to administer an oath. These changes were requested by the CACEO.

- 4) **Recounts:** Elections Code Section 15620 permits any voter, within five days of completion of the official canvass of election results, to file a written request for a recount with the elections official responsible for conducting the election. Section 15620 does not, however, include a specific time by which the recount request must be filed on the 5th day after the completion of the canvass. As a result, elections officials indicate that the deadline for accepting the request is inconsistent across counties.

This bill requires a recount request to be filed by 5pm on the fifth day after the official canvass, and makes other conforming changes. These changes were requested by the CACEO.

- 5) **Filing Petitions & Elections-Related Documents:** Current law provides procedures for the circulation of various elections-related documents and petitions (including candidate nomination documents and initiative and referendum petitions) for signatures, and requires those documents and petitions to be filed with the elections official, as specified. Various provisions of law require that the documents or petitions be filed with the elections official of

the jurisdiction *in which* the petition or document was circulated. According to elections officials, however, it is common for registered voters in a jurisdiction to be asked to sign a petition or document for that jurisdiction at a location that is outside the boundaries of the jurisdiction.

This bill clarifies that election-related nomination papers and petitions must be filed with the elections official of the jurisdiction *for which* the documents or petitions were circulated, rather than with the elections official of the jurisdiction *in which* the documents or petitions were circulated. These changes were requested by the CACEO.

- 6) **Political Party Endorsements:** Existing law permits a qualified political party to submit a list of all candidates for voter-nominated office that the party has endorsed to each county elections official. If this list is submitted not later than 83 days before the election at which the candidates will appear on the ballot, the county elections official is required to print these political party endorsements in the county voter information guide. Existing law, however, does not prescribe the method by which the list must be sent to the elections officials. As a result, the list of endorsed candidates is received inconsistently across counties via fax, email, and mail.

In an effort to standardize this process and eliminate confusion and ambiguity, this bill requires the list of endorsed candidates to be sent by certified letter postmarked not later than 83 days before the election. These changes were requested by the CACEO.

- 7) **Suggested Amendment:** Given that this is a committee omnibus bill, it is the custom and practice to remove any provisions in the bill that are controversial. Accordingly, due to the Peace & Freedom Party of California's oppose unless amended position stated below, committee staff recommends removing provisions of the bill that require the list of qualified political party endorsed candidates that is sent to an elections official to be sent by certified letter postmarked no later than 83 days before an election.
- 8) **Arguments in Opposition:** The Peace & Freedom Party of California, with an oppose unless amended position, writes:

Section 9 of AB 1829 changes the mailing requirement for candidate endorsement letters from a simple letter from the party chair to each of the 58 counties election officials, where the candidate will appear on the ballot, to a certified letter from the party chair. This unnecessary change, for which there is no justification, imposes additional burdens of time and money on party chairs. This extra burden serves no apparent public purpose nor does it benefit the election process.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

Peace and Freedom Party (oppose unless amended)

**Analysis Prepared by:** Nichole Becker / E. & R. / (916) 319-2094