

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 151 (Umberg) – As Amended May 16, 2019

**AS PROPOSED TO BE AMENDED**

**SENATE VOTE:** 38-0

**SUBJECT:** Elections.

**SUMMARY:** Permits the target of a recall election who holds a voter-nominated office to have their political party preference listed on the ballot at the recall election. Repeals a prohibition on county voter information guides being sent to voters more than 40 days before an election. Specifically, **this bill:**

- 1) Permits an officer who is the subject of a recall attempt, and who holds a voter-nominated office, to have the officer's political party preference identified on the ballot. Provides that the party preference listed, if any, shall be the party preference stated on the officer's affidavit of registration at the time the notice of intention to recall the officer is filed with the elections official, as specified. Requires the officer to notify the Secretary of State (SOS) by the deadline for the officer to file an answer to the proponents' reasons for the proposed recall whether the officer wants their party preference to appear on the ballot.
- 2) Requires the party preference, if the officer chooses to have it included on the ballot, to appear immediately to the right of and on the same line as the officer's name, or immediately below the officer's name if there is not sufficient space to the right of the name. Requires the party preference to appear in the following form:
  - a) If the officer stated a party preference on the officer's affidavit of registration that was current at the time the notice of intention to recall the officer was filed with the elections official, requires the statement to read: "Party Preference: \_\_\_\_\_" (inserting the name of the qualified political party stated on the affidavit of registration).
  - b) If the officer did not state a party preference on the officer's affidavit of registration, requires the statement to read: "Party Preference: None."
  - c) If the officer elects not to have their party preference identified on the ballot, or if the officer fails to inform the SOS whether the officer elects to have a party preference identified on the ballot by the deadline for the officer to file an answer with the SOS, the statement of party preference shall not appear on the ballot.
- 3) Deletes provisions of law that prohibit a county elections official from mailing the county voter information guide for an election more than 40 days before that election.

**EXISTING LAW:**

- 1) Provides a procedure for elective state and local elective officials to be recalled from office. Provides for proceedings to be commenced for the recall of an elective officer by the service,

filing, and publication or posting of a notice of intention to circulate a recall petition, as specified. Requires the notice of intention to contain a statement, not exceeding 200 words, of the reasons for the proposed recall. Requires a copy of the notice of intention to be served by personal delivery or by certified mail on the officer sought to be recalled.

- 2) Permits an officer who is the target of a recall effort to file an answer, not exceeding 200 words, to the statement of the proponents of the reasons for the proposed recall. Requires this answer to be filed within seven days of the filing of the notice of intention, and to be filed with the SOS in the case of a state officer.
- 3) Defines “voter-nominated office” as a congressional or state elective office for which a candidate may choose to have a party preference or lack of party preference indicated upon the ballot. Provides that the following offices are voter-nominated offices: Governor, Lieutenant Governor, SOS, Controller, Treasurer, Attorney General, Insurance Commissioner, Member of the State Board of Equalization, United States Senator, Member of the United States House of Representatives, State Senator, and Member of the State Assembly.
- 4) Requires the following text to appear on the ballot at every recall election, except for landowner voting districts, with respect to each officer sought to be recalled:
  - a) The question, “Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?”
  - b) To the right of the question, the words and options to select “Yes” or “No.”
- 5) Requires the names of the candidates nominated to succeed the officer sought to be recalled appear under each recall question.
- 6) Provides that if a majority votes in favor of the recall question, then the official is removed from office and the candidate receiving the highest number of votes among the candidates seeking to succeed the officer is declared the successor.
- 7) Permits a candidate who seeks a voter-nominated office in a regular election to have a party preference listed immediately to the right of and on the same line as the name of the candidate, or immediately below the name if there is not sufficient space to the right of the name. Requires the statement to be listed as “Party Preference: \_\_\_\_\_” (inserting the name of the qualified political party stated on the declaration of candidacy) if the candidate designated a political party preference, and to be listed as “Party Preference: None” if the candidate did not state a political party preference.
- 8) Provides, pursuant to the California Constitution, that any state officer may be recalled. Requires, pursuant to the California Constitution, for the Legislature to provide for the recall of local officers.
- 9) Requires a county elections official to prepare a county voter information guide containing specified information for each election that the official conducts. Requires the elections official to mail the county voter information guide to each voter who is registered to vote at

least 29 days before the election, as specified. Prohibits a county voter information guide from being mailed more than 40 days before the election.

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

**COMMENTS:**

- 1) **Author's Amendments:** After the committee's deadline for pre-committee author's amendments, the author proposed amendments to clarify the manner for an officeholder who holds a voter-nominated office and who is the target of a recall to indicate whether the officeholder wants their party preference to appear on the ballot. Those amendments require the officeholder to notify the SOS whether the officeholder wants their party preference to appear on the ballot by the deadline for the officeholder to file an answer to the proponents' recall notice with the SOS. This analysis reflects those proposed author's amendments.

These amendments would amend page 2, lines 11-26, and page 3, lines 1-4 as follows:

(c) If the officer sought to be recalled holds a voter-nominated office, the officer may elect to have the officer's party preference identified on the ballot. **The officer shall inform the Secretary of State whether the officer elects to have a party preference identified on the ballot by the deadline for the officer to file an answer with the Secretary of State pursuant to Section 11023. The Secretary of State shall disseminate this information to all appropriate county election officials.** The statement of party preference shall appear immediately to the right of and on the same line as the officer's name, or immediately below the officer's name if there is not sufficient space to the right of the officer's name, and shall appear in substantially the following form:

(1) If the officer stated a political party preference on the officer's affidavit of registration, the statement shall read: "Party Preference: \_\_\_\_" (inserting the name of the qualified political party stated on the affidavit of registration.) The listed political party preference shall be the political party preference stated on the officer's affidavit of registration at the time the notice of intention is filed with the elections official pursuant to Section 11021.

(2) If the officer did not state a political party preference on the officer's affidavit of registration, the statement shall read: "Party Preference: None."

**(3) If the officer elects not to have the officer's political party preference identified on the ballot, or if the officer fails to inform the Secretary of State whether the officer elects to have a party preference identified on the ballot by the deadline for the officer to file an answer with the Secretary of State, the statement of party preference shall not appear on the ballot.**

- 2) **Purpose of the Bill:** According to the author:

Unlike the elected official being recalled, candidates seeking to succeed the elected official in a recall election are able to have a ballot designation. This includes being afforded the ability to have a party preference stated on the ballot. SB 151 allows an elected official in a partisan state office who is subject to a

recall to have their party preference identified on the ballot. By providing additional identifying information on the ballot, voters are able to make a more informed choice when deciding to retain or remove an individual from office.

- 3) **Recall Process and Voter-Nominated Offices:** As detailed above, the state Constitution provides for the recall of elective state officers (including judges) and requires the Legislature to provide for the recall of local officers. Elected federal officials (e.g., member of the United States House of Representatives or United States Senator) are not subject to the recall process.

The provisions of this bill that allow the target of a recall election to have their party preference listed on the recall ballot apply only to candidates for voter-nominated office. As detailed above, the term voter-nominated office applies to *most* elective state offices. Targets of recall elections that hold nonpartisan office, including the Superintendent of Public Instruction, judges, and local elected officials, would not be permitted to have their party preference listed on the recall ballot.

- 4) **Recall History in California:** According to the SOS, since 1913, there have been 165 recall attempts of state elected officials in California. Ten recall efforts collected enough signatures to qualify for the ballot, and the elected official was recalled in six of those 10 recall elections. Below is a list of recall attempts that have qualified for the ballot and the outcome of the election:

<b>Year</b>	<b>Officer</b>	<b>Outcome</b>
1913	Senator Marshall Black	Recalled
1913	Senator Edwin E. Grant	Recalled
1914	Senator James C. Owens	Unsuccessful
1994	Senator David Roberti	Unsuccessful
1994	Assemblymember Michael Machado	Unsuccessful
1994	Assemblymember Paul Horcher	Recalled
1995	Assemblymember Doris Allen	Recalled
2003	Governor Gray Davis	Recalled
2007	Senator Jeffrey Denham	Unsuccessful
2018	Senator Josh Newman	Recalled

- 5) **County Voter Information Guide Mailings:** The provisions of this bill relating to the mailing of county voter information guides were added after the bill was approved by the Senate. As detailed above, those provisions allow county elections officials to begin mailing county voter information guides to voters more than 40 days before the election.

According to information from the Los Angeles County Board of Supervisors, which identifies itself as the sponsor of that provision of this bill, this flexibility is being sought to ensure that vote by mail (VBM) voters receive their county voter information guides before they receive the VBM ballot in the mail.

- 6) **Arguments in Support:** In support of this bill, the American Federation of State, County and Municipal Employees, AFL-CIO writes, “If an electorate is to vote on removing an official from office, they ought to be given the most information possible. Party preference can often serve as a guide for insight to a candidate’s positions on policy and social concerns. Voters

deserve to have such information on a candidate when they are making the critical decision on who their elected representatives will be.”

- 7) **Related Legislation:** SCA 2 (Allen), which is pending on the Senate Inactive File, requires that an officer subject to a recall be placed as a candidate on the ballot with the other candidates seeking to replace the incumbent, among other provisions. The recall would be unsuccessful if the incumbent receives a plurality of votes cast.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Los Angeles County Board of Supervisors (sponsor of provisions relating to mailing of county voter information guides, prior version)

American Federation of State, County and Municipal Employees, AFL-CIO (prior version)

League of Women Voters of California

**Opposition**

None on file.

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