

Date of Hearing: January 15, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1170 (Donnelly) – As Amended: January 6, 2014

SUBJECT: Primary elections: party qualification.

SUMMARY: Provides that a political party is qualified to participate in a primary election if there was polled for anyone of its candidates, for any office voted on throughout the state, at least two percent of the entire vote of the state at the last preceding gubernatorial "primary" election, instead of the last preceding gubernatorial "general" election.

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 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,
 - 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 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.

FISCAL EFFECT: Keyed nonfiscal by the Legislative Counsel.

COMMENTS:

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

With the recent change to the "top two" General Election, third party candidates are not reaching the November General Election ballot. As such, third parties cannot use subsection a of Elections code 5100 to maintain ballot access status. AB 1170 will make

a simple, technical fix to move that qualification from the Gubernatorial General Election ballot to the Gubernatorial Primary Election ballot.

- 2) How to Qualify as a Political Party: Current law permits a political body to use one of two methods to qualify as a political party. The first method is the voter registration method. In order to qualify a new political party by the voter registration method, current law requires that a number of voters equal to one percent of the votes cast at the last gubernatorial election complete an affidavit of registration, on which they have disclosed a preference for the political body intending to qualify as a political party, by writing in the name of the political body. A political body which seeks to qualify via the voter registration method for the June 2014 primary election must have 103,004 voters registered as disclosing a preference for that political body.

The second method used to qualify as a new political party is by petition. In order to qualify as a new political party by petition, current law requires the SOS, no later than 135 days prior to the primary election, to determine if a political body intending to qualify has collected petition signatures of registered voters that equal in number to 10 percent of the votes cast at the last gubernatorial election. In order for a political party to qualify for the June 2014 primary election, it must collect 1,030,040 valid petition signatures of registered voters.

- 3) Maintaining Qualified Political Party Status: Once a political party has qualified, current law permits the party to maintain its qualified status by retaining registrants representing at least 1/15 of one percent of the total state registrations and either having one of its statewide candidates receive at least two percent of the entire vote of the state for that office at the preceding gubernatorial election or retaining statewide registrations equaling at least one percent of the total votes cast at the preceding gubernatorial election.

This bill makes changes to one of the methods in which a political party uses to maintain their qualified political party status. This bill provides that a political party is qualified if one of its statewide candidates receives at least two percent of the entire vote of the state for that office at the last preceding gubernatorial primary election, instead of the last preceding gubernatorial general election. According to the author's statement, the "top two" primary election system makes it difficult for third party candidates to reach the general election for statewide offices and consequently, third parties are unable to utilize this method to maintain their qualified political party status. This bill, which moves the qualification test from the preceding general election to the preceding primary election will address this issue and allow third parties that want to use this qualification test the opportunity to continue to do so.

- 4) "Top Two" Primary: In February 2009, the Legislature approved SCA 4 (Maldonado), Res. Chapter 2, Statutes of 2009, which was enacted by the voters as Proposition 14 on the June 2010 statewide primary election ballot. Proposition 14 implemented a top two primary election system in California for most elective state and federal offices. At primary elections, voters are able to vote for any candidate, regardless of party, and the two candidates who receive the most votes, regardless of party, advance to the general election.

The implementation of the top two primary system has had a significant impact on third parties. As mentioned above, only the top two candidates for most elective state and federal offices advance to the general election. Under this new process, it is challenging for a third party candidate for statewide office to advance to the general election ballot. Consequently,

it has become impractical for third parties to maintain their status as qualified political parties based on the number of votes cast for their candidates for statewide office at the general election since their candidates typically will not appear on the general election ballot.

According to the author's office, in an effort to address this problem this bill allows a political party to maintain its status if at the last preceding gubernatorial primary election, instead of the last preceding gubernatorial general election, that one of its statewide candidates received at least two percent of the entire vote of the state. In other words, this bill moves the timing of when the two percent test occurs, from the preceding gubernatorial general election to the preceding gubernatorial primary election.

While the changes in this bill may appear to be helpful, it is unclear whether this approach will alleviate the challenges third parties face when trying to maintain their political party qualification status. Moreover, moving the qualification test from the general election to the primary election may not be sufficient, as a political party is still required to reach the two percent threshold. The committee may wish to consider whether this bill will actually result in allowing third parties to continue to use this qualification option.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

Green Party of California (Unless Amended)

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