

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 2351 (Gordon) – As Introduced: February 21, 2014

SUBJECT: Political party qualification.

SUMMARY: Revises conditions under which a political party is considered qualified to participate in a primary or presidential general election. Specifically, this bill:

- 1) Provides that a political party is qualified to participate in a primary or presidential general election if, at the last preceding gubernatorial primary election, the sum of the votes cast for all of the candidates for an office voted on throughout the state who disclosed a preference for that party on the ballot was at least two percent of the entire vote of the state, instead of the last preceding gubernatorial general election in which 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.
- 2) Permits a party to inform the Secretary of State (SOS) that it declines to have the votes cast for any candidate who has disclosed that party as his or her party preference on the ballot counted toward the two percent qualification threshold. Requires a party, if a party wishes to have votes for any candidate not counted in support of its qualification, to notify the SOS in writing of that candidate's name by the seventh day prior to the gubernatorial primary election.
- 3) Provides that a political party is qualified to participate in a primary election if, on or before the 135th day before a primary election, it appears to the SOS, as a result of examining and totaling the statement of voters and their declared political preferences transmitted to the SOS by county elections officials, that voters equal in number to at least 0.33 percent of the total number of voters registered on the 154th day before the primary election have declared their preference for that party, instead of 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.
- 4) Provides that a political party is qualified to participate in a presidential general election if, on or before the 102nd day before a presidential general election, it appears to the SOS, as a result of examining and totaling the statement of voters and their declared political preferences transmitted to the SOS by county elections officials, that voters equal in number to at least 0.33 percent of the total number of voters registered on the 123rd day before the presidential general election have declared their preference for that party, instead of 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.
- 5) Makes other 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) Provides that a political party is qualified to participate in a presidential general election under any of the following conditions:
 - a) The party is qualified to participate and participated in the presidential primary election preceding the presidential general election pursuant to existing law;
 - b) 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;
 - c) 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,
 - d) 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.

- 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 or presidential general 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 non-fiscal by Legislative Counsel.

COMMENTS:

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

Proposition 14, passed by the voters in June of 2010, will eliminate a major way the smaller political parties remain qualified and therefore maintain ballot status. In response, AB 2351 would make two distinct changes to the party qualification statutes to remedy this situation and continue to provide smaller parties with a means to retain their qualified party status.

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 sought to qualify via the voter registration method for the June 2014 primary election must have had 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 have collected 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 the methods a political party uses to maintain its qualified political party status. First, this bill makes changes to the party qualification test that allows party qualification as a result of votes for the party's candidate for a statewide office. Specifically, this bill moves the vote threshold test from the preceding gubernatorial general election to the preceding gubernatorial primary election. Additionally, this bill allows the two percent threshold to be calculated based on the sum of the votes cast for all the party's candidates for a single statewide office instead of basing the two percent threshold on having

one of its statewide candidates receive at least two percent of the entire vote of the state for that office. According to the author, due to the "top two" primary election system, smaller party candidates are no longer guaranteed a spot on the general election ballot for the statewide partisan offices. As a result, the smaller parties will be unable to use this method to maintain their qualified political party status. The changes in this bill will ensure smaller parties can continue to use this method to maintain their qualified status.

Second, this bill makes changes to the test that allows party qualification as a result of registration numbers relative to votes cast for Governor in the November general election. Specifically, this bill changes the registration threshold for party qualification from one percent of all votes cast in the gubernatorial general election to 0.33 percent of all registered voters that have declared their preference for that party, regardless of the gubernatorial voter turnout. Proponents of this bill argue that basing the registration threshold on voter turnout is challenging because voter turnout is unpredictable and subject to large fluctuations and as a result it is difficult for a party to know how many voters a party needs to maintain their qualification status. According to the author, because smaller parties will likely be unable to utilize the statewide office test to maintain their qualification status they will need to either meet the registration test option or file a petition with the SOS signed by an even larger number of voters. The author argues that this bill will provide greater predictability as to how many voters a party would need to maintain by basing it off of registration rather than unpredictable elections turnout. Finally, the author contends that all of these changes in this bill will provide minor parties with a more reasonable opportunity to maintain their qualified party status.

- 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. 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. In addition, as that method to maintain party qualification status goes away, parties will likely have to meet the registration test in order to maintain their qualification status.

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, the sum of the votes cast for all of the party's candidates for a statewide office total at least two percent of the votes for that office. 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 as well as allowing the two percent threshold to be calculated based on the votes for all of the

party's candidates in a particular race, not just one candidate.

Additionally, this bill changes the registration threshold for party qualification from one percent of all votes cast in the gubernatorial general election to 0.33 percent of all registered voters that have declared their preference for that party, regardless of the gubernatorial voter turnout. The combination of these changes will help alleviate the challenges smaller parties face when trying to maintain their political party qualification status.

REGISTERED SUPPORT / OPPOSITION:

Support

California Alliance for Retired Americans
Californians for Electoral Reform
Coalition for Free and Open Elections
Peace & Freedom Party of California
Secretary of State Debra Bowen

Opposition

None on file.

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