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Assembly
California Legislature

ASSEMBLY COMMITTEE ON
ELECTIONS AND REDISTRICTING
PAUL FONG, CHAIR

AGENDA

1:30 P.M. – May 6, 2014
State Capitol, Room 444

BILLS HEARD IN SIGN-IN ORDER

Item	Bill No. & Author	Summary
1.	AB 1596 (Garcia)	Elections: vote by mail ballot applications.
2.	AB 1752 (Fong)	Redistricting: incumbent designation.
3.	AB 1817 (Gomez)	Voter registration: deputy registrars of voters: high school pupils.
4.	AB 1873 (Gonzalez)	Mail ballot elections.
5.	AB 2028 (Mullin)	All-mailed ballot elections: San Mateo County.
6.	AB 2093 (Grove)	Petitions: filings.
7.	AB 2233 (Donnelly)	Primary elections: petitions: signatures.
8.	AB 2351 (Gordon)	Political party qualification.
9.	AB 2369 (Hagman)	Elections: voter-requested recounts.
10.	AB 2551 (Wilk)	Local ballot measures: bond issues.
11.	AB 2562 (Fong)	Elections.
12.	AB 2766 (Elections and Redistricting)	Elections: central committees: oaths.

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1596 (Garcia) – As Introduced: February 4, 2014

SUBJECT: Elections: vote by mail ballot applications.

SUMMARY: Requires a printed vote by mail (VBM) ballot application that allows a voter to submit the application by mail to inform the voter of the address for the elections official and specify that address as the only appropriate destination address for mailing the application. Specifies that this does not prohibit an individual, organization, or group that distributes applications for VBM ballots from collecting or receiving applications from voters, pursuant to current law, by a means other than having the applications mailed directly to the address of the distributing individuals, organization, or group.

EXISTING LAW:

1) Requires a VBM ballot application to be received by the elections official not later than seven days prior to the date of the election.

2) Requires a printed application that is to be distributed to a voter for requesting a VBM ballot to include the following:

   a) The printed name and residence address of the voter as it appears on the affidavit of registration;

   b) The address to which the ballot is to be mailed;

   c) The voter's signature; and,

   d) The name and date of the election for which the request is made.

3) Permits the information above in subdivisions (a) and (d) to be preprinted on VBM applications. Requires information above in subdivisions (b) and (c) to be personally affixed by the voter. Requires a VBM application that contains preprinted information to contain a conspicuously printed statement substantially similar to the following: "You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside."

4) Prohibits the address to which the ballot is to be mailed from being the address of a political party, a political campaign headquarters, or a candidate's residence. Provides that a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that a VBM ballot be mailed to the candidate's residence.

5) Requires an individual, organization, or group that distributes applications for VBM ballots and receives completed application forms to return the forms to the appropriate elections

official within 72 hours of receiving the forms, or before the deadline for application, whichever is sooner.

6) Provides that any individual, group, or organization that knowingly distributes any application for a VBM ballot that violates current law is guilty of a misdemeanor.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

> In recent years there have been increasing reports of alleged tampering and interference with Vote by Mail applications. In 2013, the Los Angeles County Registrar-Recorder/County Clerk received numerous reports about campaigns collecting voted Vote by Mail ballots from voters, this included concerns with campaigns also holding completed Vote by Mail applications at their headquarters and the potential for losing or refusing to return the applications on time.

2) Current Procedures: Current law prohibits the address to which a VBM ballot is to be mailed from being the address of a political party, a political campaign headquarters, or a candidate's residence. However, current law does not apply the same prohibition to the return address of the VBM application. As a result, according to the author's office, some VBM applications have campaign addresses as the return address for the application and VBM applications are being sent to the campaign address instead of to the elections official's office. According to the author, even though current law requires an individual or organization that distributes VBM applications to return the forms to the appropriate elections official with 72 hours of receiving the completed form or before the deadline for applications, whichever is sooner, there are anecdotal reports that this is not occurring and VBM applications are being delayed, lost, or not returned at all. Not only is this a violation of current law, but it also results in interfering with the VBM process. This bill will ensure a voter's VBM ballot application is protected by requiring a VBM ballot application to inform the voter of the address of the elections official and specify that address as the only appropriate destination address for mailing the application. This will aid in ensuring voters are informed where to send their VBM ballot applications.

3) Is There a Problem? The author's office provided the committee staff with two VBM application examples - one VBM application that clearly shows the return address of a campaign office. The other example submitted to the committee shows that the VBM ballot application provides the voter with the address of the elections official and informs the voter in small print that they have the legal right to mail the application to the elections official, and that returning the application to anyone else may cause delay that could interfere with the voter's right or ability to vote. Additionally, proponents of this bill state that anecdotally, in local elections, county elections officials, especially Los Angeles County, have been receiving an increasing number of concerns from community members, organizations, elected officials that have brought forth complaints regarding the inappropriate handling of VBM ballots. These complaints range from campaign workers losing VBM ballot applications to concerns that campaigns may be holding applications and bringing them in

late in the election, leaving a person less time to receive, vote and return their VBM ballot.

However, beyond those two examples provided to committee and the anecdotal complaints, no statistical evidence has been provided to the committee that demonstrates there is a problem statewide. According to the Secretary of State's Election Fraud Investigations Unit, between 1994 to 2010, there was a total of five cases opened and zero convictions for the non-return of VBM applications. Additionally, there were six cases opened for fraudulent VBM applications and zero convictions. The lack of evidence illustrates that this may not be a widespread problem in California. On the other hand, ensuring voters are informed as to the appropriate place to return their VBM application will prevent VBM ballot applications from being delayed or interfered with and ensure voters are protected and not disenfranchised. Proponents argue that this bill will help provide added protections and safeguard the integrity of the VBM process as it is an important option that more voters are choosing when casting their ballots.

4) Arguments in Support: The California Association of Clerks and Election Officials writes in support:

> This bill will facilitate and speed the processing of vote-by-mail applications by by-passing intermediaries who delay election officials' receipt of the request. The bill does not preclude individuals and organizations from gathering vote-by-mail applications by means other than through the mail which does not hamper their right to conduct vote-by-mail campaigns while retaining the 72 hour requirement for the application to be submitted to the appropriate election official. This bill will permit election officials to mail, in a timely manner, ballots to those requesting them which can often be an issue as the election nears.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials
Los Angeles County Board of Supervisors

Opposition

None on file.

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

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1752 (Fong) – As Introduced: February 14, 2014

SUBJECT: Redistricting: incumbent designation.

SUMMARY: Makes the portion of a new district that is represented by an elected official a more important factor than district number when determining which candidate is considered the "incumbent" after redistricting in an election for Congress, Legislature, or Board of Equalization (BOE). Specifically, this bill:

1) Provides in the first election for Representative in Congress, State Senator, Assemblymember, or Member of the BOE following the adjustment of boundaries of districts, if more than one sitting member of a governmental body is running for election in a new district, the candidate who is considered the "incumbent" in the new district is the candidate whose district has the largest portion of territory in the new district, instead of the candidate who is running in a district bearing the same number as the district represented by the candidate, if any.

2) Makes conforming changes to reflect that the Citizens Redistricting Commission (CRC), rather than the Legislature, is responsible for adjusting the boundaries of Congressional, Legislative, and BOE districts following the federal decennial census.

3) Makes corresponding and technical changes.

EXISTING LAW:

1) Provides in the first election for Representative in Congress, State Senator, Assemblymember, and Member of the BOE following the adjustment of boundaries of districts, the candidate who is considered the incumbent in the race shall be based on the following:

   a) If a candidate is running for the same office which he or she holds, and is running for reelection in a district that has the identical boundaries and number as the district from which he or she was last elected, that person is deemed to be the incumbent;

   b) If there is no candidate for which (a) applies, but there is a candidate running for the same office which he or she holds, and is running for reelection in a district that has the identical boundaries as the district from which he or she was last elected, but which has a different number, that person is deemed to be the incumbent;

   c) If there is no candidate for which (a) or (b) applies, but there is a candidate running for the same office which he or she holds, and who is running for reelection in a district that has the identical number as the district from which he or she was last elected, that person is deemed to be the incumbent; provided, however, that a candidate for Assembly is considered the incumbent in this case only if the district bearing the same number is

located in the same county as the district which previously bore that number;

d) If there is no candidate for which (a), (b), or (c) applies, but there is a candidate running for the same office that he or she then holds, and who is running for reelection in a district that contains some portion of the territory previously contained within the district from which he or she was last elected, that person is deemed to be the incumbent; provided, however, that in a new district that contains portions of the territory of more than one former district, the incumbent is the candidate whose former district includes the largest portion of the territory of the new district; and,

e) If there is no candidate for which (a), (b), (c), or (d) applies, any candidate for the same office that he or she then holds and who fulfills the residential requirements of law for candidacy within the district is considered the incumbent.

2) Establishes the CRC, and gives it the responsibility for establishing the district lines for State Senate, Assembly, Congress, and the BOE.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

> Every ten years, following the completion of the Census, the boundary lines of Legislative, Congressional, and Board of Equalization districts are required to be adjusted so that all the districts for the same office have approximately equal populations.
>
> When district boundaries are adjusted, it is possible that more than one sitting member of a house of the Legislature, of Congress, or of the Board of Equalization, may end up in the same district. In recognition of the potential for such a situation, state law contains a method for determining which candidate is considered the incumbent when two or more sitting members are running against each other following the adjustment of boundary lines. Under that method, if both sitting members represent a portion of the new district in which they are running, the member who is running for the district with the same district number is considered the incumbent, and is able to use the ballot designation of "Incumbent."
>
> The purpose of allowing a candidate to use the ballot designation "Incumbent" is to provide information to voters about the individual who has been representing them. In light of that fact, state law should give priority to the person who represents the largest portion of the new district, rather than the person who is running in the same district number.
>
> AB 1752 ensures that a candidate who represents the largest portion of a new district following redistricting will be considered the incumbent in that district. Additionally, AB 1752 updates California law to reflect the fact that redistricting

of Legislative, Congressional, and Board of Equalization districts is now carried out by the Citizens Redistricting Commission.

2) Incumbency After Redistricting: In 1961, the Legislature passed and the Governor signed AB 2444 (Crown), Chapter 1238, Statutes of 1961, which established a procedure for determining which candidate for reelection would be considered the incumbent in a congressional, Assembly, Senate, or BOE district at the first election after redistricting. Under that procedure, an elected official who was running in a district that had the same number as the district that he or she held had priority over another official running in the same seat.

   When the Legislature was responsible for drawing new district lines, it typically numbered districts in a manner that was designed to promote continuity in district numbers, so the practical effect was that the person who represented a larger portion of the new district typically was considered the incumbent. But when the CRC numbered districts, it did so in a manner that followed the geographic placement of the districts much more strictly. For example, in the 2001 Assembly redistricting plan that was prepared and adopted by the Legislature, 76 of the 80 new Assembly Districts were assigned numbers that corresponded to the number of the previous Assembly District that made up the largest portion of the new district. By contrast, in the 2011 Assembly redistricting plan that was prepared and adopted by the CRC, just 11 of the 80 new Assembly Districts were assigned numbers that corresponded to the number of the previous Assembly District that made up the largest portion of the new district. In fact, in the CRC's redistricting plan for the state Assembly, 54 of the 80 new Assembly Districts contained no territory in common with the district of the same number from the 2001 district lines.

3) Effect on 2011 Elections: This bill would not have affected the determination of incumbency in any races following the 2011 redistricting process, as there was only one district in which two sitting members of the same body ran against each other, and neither of those members was running in a district that had the same number as the district that the member represented at the time. Congressman Brad Sherman (who represented the 27th Congressional District) and Congressman Howard Berman (who represented the 28th Congressional District) both ran for reelection in 2012 in the 30th Congressional District following the 2011 redistricting. Since neither Congressman represented a district with the same number as the district in which they were running, Congressman Sherman was considered the incumbent in the 30th Congressional District because he represented a larger portion of the district than Congressman Berman. In elections held after future redistricting processes, however, this bill may have a significant impact.

4) Suggested Amendment: Under existing law and the provisions of this bill, if an incumbency determination is based on an assessment of which candidate represents a larger portion of a district, that determination is made based on the amount of territory that each candidate represents in the new district. To better realize the author's goals, the author and the committee may wish to consider amending this bill to provide that such determinations will be made based on the *population* that each candidate represents in the new district, instead of the *territory* that each candidate represents.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1817 (Gomez) – As Introduced: February 18, 2014

SUBJECT: Voter registration: deputy registrars of voters: high school pupils.

SUMMARY: Permits a governing board of a school district to authorize a high school pupil 16 years of age or older to become a deputy registrar of voters and to register qualified pupils to vote on his or her high school campus.

EXISTING LAW:

1) States the intent of the Legislature that county elections officials, in order to promote and encourage voter registration, shall enlist the support and cooperation of interested citizens and organizations, and shall deputize as registrars qualified citizens.

2) Provides that any person who is a registered voter qualifies for appointment as a deputy registrar of voters.

3) Permits the governing board of a county, city, city and county, district, or other public agency to authorize and assign an officer or employee to become a deputy registrar of voters and register qualified citizens on any premise or facility owned or controlled by the agency.

4) Provides that it is the intent of the Legislature that registrars continue to be deputized by the county elections official and their activities shall not be limited where their services are needed but that as the electorate becomes more conversant with mail registration procedures, the number of deputy registrars will naturally diminish due to the decrease in the demand for services.

5) Provides that the county elections official shall provide voter registration forms for use in registration by deputy registrars of voters and the forms shall be bound into books or pads. Requires the forms to be numbered and have a stub attached.

6) Provides that each deputy registrar of voters shall be issued a receipt by the county elections official for all books or pads issued, specifying the numbers of the affidavits received and the deputy is responsible for them until they are returned to the county elections official.

7) Provides that each paper affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State (SOS) except that affidavits of voter registration issued to a deputy registrar of voters shall be modified to reflect the use of a deputy registrar of voters in lieu of mail delivery and specifies the following:

   a) The affidavit of registration must include a stub printed with the following:

      i) The number of the affidavit.

      ii) Blank lines for the following information:

(1) Name of the voter;

(2) Residence of the voter;

(3) Political affiliation of the voter;

(4) Signature of the voter;

(5) Signature of the deputy taking the registration; and,

(6) The date.

b) At the time of registration the deputy shall:

i) Fill in the blanks in the stub and require the voter to sign the stub in the place provided.

ii) Detach the stub and the information portion of the voter registration form from the affidavit and hand the stub and information to the voter.

8) Provides that on the day of the close of registration for any election, all deputy registrars of voters shall immediately return all completed affidavits of registration in their possession to the county elections official.

9) Provides that any deputy registrar of voters having charge of affidavits of registration is guilty of a misdemeanor who knowingly neglects or refuses to return affidavits of registration as specified and the county elections official shall report to the district attorney of the county, under oath, the names of any deputies who have failed to return the affidavits.

10) Provides that the county elections official shall provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute the cards other than to persons who have been convicted of violating specified provisions of law within the last five years. Provides that citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county and are required to return them to the elections official or deposit them in the postal service within three days of receipt from a voter, excluding Saturdays, Sundays, and state holidays.

11) Provides that if a person, including the deputy registrar of voters, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

> The goal of the bill is to empower students, to begin leading their own connections to civic engagement and the electoral process. AB 1817 will allow students 16 years of age or older to have the opportunity to apply to be a deputy registrar though their local high school. The benefits of allowing a student to be a deputy registrar will involve students in the process and encourage their peers to participate.

2) Voter Outreach: Under existing law a person is entitled to register to vote if they are a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.

   Existing law also provides that it is the intent of the Legislature that the election board of each county, in order to promote and encourage voter registration, shall establish a sufficient number of registration places throughout the county, and outside the county courthouse, for the convenience of persons desiring to register, to the end that registration may be maintained at a high level. It also states its desire to promote and encourage voter registration by enlisting the support and cooperation of interested citizens and organizations and requires the elections official to provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute the cards anywhere in the county.

   Further, state law declares the intent of the Legislature in efforts to increase voter registration opportunities to deputize qualified citizens as registrars of voters in such a way as to reach most effectively every resident of the county. State law also declares the intent of the Legislature that the introduction of registration by mail shall not in any way lead to administrative limitations on the use of deputy registrars of voters for the purpose of assisting in the registration of persons who may require such assistance with the understanding that as the electorate becomes more conversant with mail registration procedures, the number of deputy registrars will naturally diminish due to a decrease in demand for their services.

   This measure expands the list of persons who can be appointed to become a deputy registrar of voters to include pupils who are 16 years of age or older and have been authorized by the governing board of a school district, but are otherwise ineligible to register to vote due to their age. As a deputy registrar of voters, an appointed pupil may register qualified citizens to vote on school premises.

3) High School Student Voter Registration: Existing law mandates that the last two full weeks in April and the last two full weeks in September shall be known as "high school voter weeks," during which time deputy registrars of voters shall be allowed to register students and school personnel on any high school campus in areas designated by the school administration, which are reasonably accessible to all students.

   Existing law requires the SOS to provide a written notice with each registration form describing eligibility requirements and informing each student that he or she may return the completed form in person or by mail to the elections official of the county in which the student resides or the SOS.

4) Who Can Register Voters? Nothing in existing law prevents any person or organization from providing voter registration materials or assisting a qualified voter to complete his or her affidavit of voter registration. Under existing law you are not required to be a registered voter, be a particular age, or be a resident of the area in order to register voters. Any person who assists a voter in completing his or her voter registration card is required to sign the card in the spaces provided for that purpose and return any completed cards to the county elections official or deposit them in the postal service within three days of receipt from a voter, excluding Saturdays, Sundays, and state holidays.

A deputy registrar of voters is a registered voter who has been appointed and deputized by the county elections official to register voters anywhere in the county. They use specifically designed affidavits to register voters that have a stub printed at the bottom. The affidavits are numbered, bound in books or pads and issued to individual deputies and cannot be returned by mail to the elections official. For each affidavit of registration completed by a voter, the deputy is required to fill out a stub at the bottom and both the deputy and the affiant are required to add their signatures after which the deputy detaches the stub and gives it to the voter. These books or pads are returned to the county elections official on the day of the close of registration for any election. Failure to return affidavits of registration as specified may be subject to misdemeanor penalties.

The committee may wish to consider whether pupils would want to take on the responsibility of being appointed as a deputy registrar of voters which carries additional obligations when nothing in existing law prevents pupils from distributing voter registration cards and assisting qualified voters to register to vote. In order to reflect the authors intent of taking steps to encourage youth participation while not making students subject to the restrictions imposed on deputy registrars, the author and committee may wish to amend this bill as follows:

On page 2, amend lines 1 through 7 as follows; and remove the remaining contents of the bill:

SECTION 1. Section 49041 is added to the Education Code, to read:

49041. The governing board of a school district may authorize a high school pupil 16 years of age or older to ~~become a deputy registrar of voters, and to~~ register to vote ~~qualified pupils~~ any person pursuant to Section 2102 of the Elections Code on his or her high school campus~~, pursuant to Section 2103 of the Elections Code~~ during high school voter weeks, as specified in Section 49040, or at any other time as deemed appropriate by the governing board.

REGISTERED SUPPORT / OPPOSITION:

Support

State Bar of California

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1873 (Gonzalez & Mullin) – As Amended: April 22, 2014

SUBJECT: Mail ballot elections.

SUMMARY: Allows special elections to fill vacancies in the Legislature and Congress to be conducted entirely by mailed ballot. Allows any county election to fill a vacancy on the board of supervisors or any city special election to be conducted entirely by mailed ballot. Specifically, this bill:

1) Permits a special election held to fill a vacancy in the Legislature or in Congress to be conducted entirely by mailed ballot subject to all of the following conditions:

   a) The board of supervisors of each county that lies in whole or in part within the district authorizes the use of mailed ballots for the election through the adoption of a resolution;

   b) The election does not occur on the same date as a statewide primary or general election, or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted wholly by mail;

   c) At least one ballot dropoff location is provided per city, and is open during business hours to receive voted ballots beginning 21 days before the date of the election;

   d) The number of dropoff locations in unincorporated areas is based on the number of registered voters in those areas, divided by 100,000 and rounded to the next whole number, with not less than one location selected;

   e) On at least one Saturday and Sunday after the date the elections official first delivers ballots to voters, the elections official allows any voter to vote the ballot at the office of the elections official. Provides that the elections official shall determine the hours of operation provided that the office is open for a minimum of six hours on each designated Saturday and Sunday;

   f) At least one polling place is provided per city or the polling places are fixed in a manner so that there is one polling place for every 100,000 residents within the district, as determined by the annual city total population rankings by the Demographic Research Unit of the Department of Finance, on the 88th day prior to the day of the election, whichever results in more polling places. Provides that a polling place shall allow voters to request a ballot between 7 a.m. and 8 p.m. on the day of the election if they have not received their ballots in the mail or if they need replacement ballots for any reason;

   g) Upon the request of the city, county, or district, the elections official may provide additional ballot dropoff locations and polling places;

h) The elections official delivers to each voter all supplies necessary for the use and return of the mail ballot, including an envelope for the return of the voted mail ballot with postage prepaid;

i) The elections official delivers to each voter, with either the sample ballot or with the voter's ballot, a list of the ballot dropoff and polling place locations, and posts that list on the Internet Web site of the county elections office;

j) Provides that a ballot is timely cast if it is received by the voter's elections official no later than three days after election day and either of the following is satisfied:

   i) The ballot is postmarked or is time stamped or date stamped by a bona fide private mail delivery company on or before election day; or,

   ii) If the ballot has no postmark, a postmark with no date, or an illegible postmark, the vote by mail (VBM) ballot identification envelope is signed and dated on or before election day.

k) Allows jurisdictions that have the necessary computer capability to begin processing VBM ballots on the 10th business day prior to the election, instead of the seventh business day prior to the election.

2) Allows any municipal special election to be conducted entirely by mailed ballot. Allows a special election to fill a vacancy on a county board of supervisors to be conducted entirely by mailed ballot. Repeals a provision of law that prohibits specified all-mailed ballot elections in cities and districts from being consolidated with other elections, and instead provides that in a consolidated election in which boundaries overlap, all of the jurisdictions within the overlapping boundaries must agree to conduct the election as an all-mailed ballot election.

3) Makes corresponding changes.

EXISTING LAW:

1) Permits an election to be conducted wholly by mail if the governing body authorizes the use of mailed ballots for the election, the election occurs on an established mailed ballot election date, and the election is one of the following:

   a) An election in which no more than 1,000 registered voters are eligible to participate;

   b) An election in a city, county, or district with 5,000 or fewer registered voters that is restricted to the imposition of special taxes, expenditure limitation overrides, or both;

   c) An election on the issuance of a general obligation water bond;

   d) An election in one of four specifically enumerated water districts; or,

e) An election or assessment ballot proceeding required or authorized by the state constitution under Proposition 218.

2) Authorizes a school district or city with a population of 100,000 or less to conduct an all-mail ballot election to fill a vacancy in a special election.

3) Authorizes a district to conduct any election as an all-mailed ballot election on any date other than an established election date.

4) Provides that whenever there are 250 or fewer people registered to vote in any precinct, the elections official may deem the precinct as an all-mail ballot precinct. Provides that no precinct may be divided solely in order to create an all-mail precinct.

5) Provides that once a legislative or congressional vacancy occurs, the Governor has 14 days to issue a proclamation declaring the date of the special election. Requires the special run-off election to occur between 126 and 140 days after the date of the proclamation with the special primary election occurring the ninth Tuesday preceding the special run-off, except as specified. Permits the special runoff election to be held up to 180 days after the date of the Governor's proclamation if it will allow either the special runoff or special primary to coincide with an existing state or local election involving at least half the voters in the affected jurisdiction.

6) Permits Yolo County, as part of a pilot program lasting through January 1, 2018, to conduct elections on up to three dates as all-mailed ballot elections, subject to certain conditions and reporting requirements.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

> Assembly Bill 1873, known as the Voting Ought To be Easy (VOTE) Act, seeks to improve two major shortcomings with special elections in California – the widespread non-participation by voters in these low-profile electoral contests and the costliness of operating a special election on taxpayers. Together, the apparent inefficiency of the special election status quo has invited well-meaning but risky alternatives that undermine the public's right to an election and our State government's system of checks and balances. AB 1873 allows county and local governments the opportunity to avoid the low participation and high costs involved in special elections by conducting these special elections entirely by mail ballot, a process which has shown to majorly reduce costs and increase access to democracy. In exchange, the county or local government opting in to the mail-only election process agrees to several measures that further expands voter access. These conditions include providing postage-paid envelopes for return ballots and honoring any ballot received with a postmark by Election Day, similar to tax forms postmarked by April 15 are still "on time." Our democracy flourishes when more eligible voters participate and AB 1873 helps move our state in that

direction for special elections.

2) Vote by Mail and Permanent Vote by Mail Voting: Under state law, any voter can request a VBM ballot for any election, and any voter can become a permanent VBM voter. Permanent VBM voters automatically receive a ballot in the mail for every election, without the need to re-apply for a VBM ballot. As such, any voter who prefers to vote by mail has the ability to do so under existing law.

   Among the arguments that supporters of all-mailed ballot elections frequently make in support of such elections is that all-mailed ballot elections are more convenient for voters. However, it is not clear whether this is the case. Any voter who finds it more convenient to vote by mail has the option to do so under existing law, and voters who want to vote by mail at every election can sign up for permanent VBM status. Some voters, due to physical disability or language issues, may prefer to vote at the polls in order to take advantage of access or help provided by electronic voting machines or bilingual poll workers.

3) Yolo County Pilot Project: In 2011, the Legislature approved and the Governor signed AB 413 (Yamada), Chapter 187, Statutes of 2011, which created a pilot program allowing Yolo County to conduct local elections on not more than three dates as all-mailed ballot elections. AB 413 was intended to serve as a pilot project to evaluate the desirability of further expanding the circumstances under which elections are permitted to be conducted as all-mailed ballot elections. Yolo County conducted all-mailed ballot elections last March in the City of Davis and the Washington Unified School District as permitted by AB 413, and submitted its report on those elections last December. The pilot project in Yolo County was authorized following a prior pilot project in Monterey County that failed to provide useful information about the impacts of all-mailed ballot elections because the report filed by Monterey County as part of the pilot project lacked much of the information that was necessary to evaluate the impacts of the pilot project.

   The report prepared in connection with the first two elections conducted in Yolo County under the pilot project found that turnout at the all-mailed ballot elections conducted as part of the pilot project was not significantly different than similar polling place elections held in the two jurisdictions in prior years. The study also found that turnout rates broken down by age, ethnic background, party preference, and permanent VBM status was consistent and similar between the polling place and the all-mailed ballot elections. The study found that data provided on the cost to conduct all-mailed ballot elections was inconclusive in determining whether there are significant savings to moving to all-mailed ballot elections. However, the study also cautioned that Davis—one of the jurisdictions in which the pilot was conducted—"is a relatively affluent, homogenous community with a higher level of educational achievement than most other areas of the state" and so the results "are not necessarily applicable to other, dissimilar communities." The report also noted that the effects of all-mailed ballot elections on turnout would not necessarily be similar in general elections.

   Yolo County is permitted to conduct local elections as all-mailed ballot elections on two additional dates before the conclusion of the pilot project. The committee may wish to consider whether it is desirable to expand the circumstances under which elections can be conducted entirely by mail prior to the completion of the pilot project that the Legislature

authorized in an effort to get better information about the impacts of such elections.

4) Special Vacancy Elections: In order to promptly fill vacancies in the Legislature and in Congress, special elections to fill such vacancies typically are conducted in a shortened time period, and elections officials have less time to prepare than they do for regularly scheduled elections. Furthermore, because vacancies in the Legislature or in Congress can occur due to the death of an officeholder or an unexpected resignation, special vacancy elections often cannot be anticipated in advance, so elections official may not be able to prepare in advance for these elections.

   While certain elections may be conducted as all-mailed ballot elections under existing law, most elections—particularly for Legislature and Congress—are still conducted as traditional elections, where voters have the ability to vote at a polling place on election day. As a result, many voters who are accustomed to voting at a polling place may expect that there will be a neighborhood polling place at which they will be able to vote in a special election for Legislature or Congress. If such polling places are not going to be provided, voter education and outreach efforts may be necessary to ensure that voters who traditionally would vote at a polling place are not negatively affected by this change in election procedure. Given the unpredictable need and expedited time frame for special elections, however, the ability of elections officials to do effective voter education and outreach may be limited. The committee may wish to consider whether it is desirable to allow the use of a balloting method—all-mailed ballot elections—with which many voters are not familiar for special vacancy elections, given that the abbreviated schedule for such elections limits the ability to do education and outreach.

5) United States Postal Service Facility Closures and Mail Delays: In 2012, this committee and the Senate Elections and Constitutional Amendments Committee held a joint oversight hearing to discuss United States Postal Service (USPS) facility closures and the impact on voters and upcoming elections. During the hearing, state and county elections officials testified about the impact that recent post office and processing facility closures had on their jurisdictions and on local elections, as well as the anticipated challenges with more closures expected.

   According to testimony from elections officials, one of the most significant impacts those closures had on the election process is that there had been significant delays in mail delivery in some circumstances. Elections officials from counties that were previously served by closed facilities indicated that some first class mail took five to seven days to arrive after closures of USPS facilities, compared to the usual delivery time of one to three days. Since that hearing, the USPS has announced further plans for changes in mail delivery procedures that also have the potential to delay mail delivery. Finally, the USPS and Congress have considered proposals to end Saturday mail delivery as a way to cut costs.

   The committee may wish to consider whether it is appropriate to permit all-mail ballot elections to be used in a broader range of circumstances when closures and operational changes by the USPS may result in mail delivery delays, and otherwise make mail delivery less reliable.

6) Arguments in Support: The sponsor of this bill, the County of San Diego, writes in support:

> Under existing law, county jurisdictions are mandated to prepare and conduct special elections to fill a vacancy in the office of a State Senator or Member of the Assembly, or to fill a vacancy in the office of United States Senator or Member of the United States House of Representatives. Charter counties and cities may conduct all-mail ballot elections for local special elections should there be a clause in their charters that permit them such authority. In contrast, general law cities, and those who do not have direction in their charter, are governed by state voting procedures, which have strict limits on when local special elections can be carried out as all-mail ballot elections.
>
> As you are aware, election trends indicate a consistently low voter turnout for special elections, which may have only a single issue or candidate on the ballot. The number of mail ballots cast throughout California is growing and prevailing as the preferred method of voting. By allowing special elections to be conducted by means of an all-mail ballot election, not only may voter participation increase but there will be a reduction in election costs which ultimately saves taxpayer dollars. In addition, all-mail ballot special elections provide convenience to voters, while still providing many opportunities for civic engagement.

7) Arguments in Opposition: Asian Americans Advancing Justice-Los Angeles (Advancing Justice-LA), which has an oppose unless amended position, writes:

> Advancing Justice-LA supports both legislative and grassroots efforts to make it easier for voters to vote by mail (VBM). We are aware that across the state, the proportion of voters signing up for permanent VBM status has trended upward over the past decade. However, we believe it is premature for the state to authorize jurisdictions to make VBM the primary balloting option for voters in the absence of information explaining why California ranks poorly relative to other states with respect to VBM rejection rates and VBM return rates....
>
> Additionally, although the overall proportion of VBM voters in the state has increased over time, available data highlight sizable age, racial and ethnic, and other disparities between VBM voters and polling place voters, as well as significant variations by region. For example, a report by the California Civic Engagement Project at the UC Davis Center for Regional Change found that in the 2012 general election, the proportion of youth voters (defined as ages 18-23) who voted by mail was 25 percentage points lower than the proportion of voters 64 years or older who voted by mail.
>
> Among racial and ethnic lines, the report found that statewide, the rate of VBM usage among Latino voters was 14 percentage points lower than the rate for all voters as a whole, and that this gap was larger in regions such as Southern California (encompassing Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties). The report found that the rate of VBM usage among Asian American voters was above that of the general population; however, from voter research that Advancing Justice-LA has conducted, we know that the rate of

VBM usage varies by Asian American ethnic group. For example, among Los Angeles County voters during the 2008 general election, Asian Indian (22%), Cambodian (27%), and Filipino American (26%) voters used the VBM balloting process at rates near or below the countywide average (24%). Advancing Justice-LA's belief is that policymakers should first consider the potential challenges and disparities in VBM usage noted above before enacting legislation that permits jurisdictions to make VBM balloting the primary option for voters, whether in regularly scheduled elections or special vacancy elections…

Even accepting the notion that all-mail ballot elections may create increased turnout, we believe that the unintended consequences of making VBM the primary option for diverse electorates will impede the achievement of increased turnout unless adequate mitigation measures are taken. These unintended consequences pertain to accessibility and education and include the following:

- *Reduction in availability of language assistance available at polling places under federal law, and availability of in-person assistance in general...*

- *Reduction in availability of language assistance available at polling places under state law...*

- *Large amount of voter education required to switch to all-mail system…*

8) Related Legislation: AB 2028 (Mullin), which is also being heard in this committee today, would authorize San Mateo County to participate in the ongoing all-mailed ballot pilot project that is being conducted in Yolo County, as described above.

SCA 16 (Steinberg), which is pending in the Senate Appropriations Committee, would permit the Governor to fill a Legislative vacancy by appointment, as specified.

AB 2273 (Ridley-Thomas), which is pending in the Assembly Appropriations Committee, would require the state to reimburse counties for the costs of special elections held to fill vacancies in Congress and the Legislature, for all elections held on or after January 1, 2013. AB 2273 was approved by this committee on a 7-0 vote.

SB 942 (Vidak) would require the state to reimburse counties for the costs of special elections held to fill vacancies in Congress and the Legislature, for all elections held between January 1, 2008 and December 31, 2014. SB 963 (Torres) is identical to AB 2273. Both bills are pending in the Senate Appropriations Committee.

9) Previous Legislation: SB 304 (Kehoe) of 2011 would have authorized elections in San Diego County to be conducted wholly by mail until January 1, 2016, if specified conditions were satisfied. SB 304 was never heard in committee.

SB 1102 (Liu) of 2010 would have permitted a special primary or run-off election to fill a legislative or congressional vacancy to be conducted wholly by mail provided that the board of supervisors of each county within the affected jurisdiction authorized the all-mail ballot

election. SB 1102 was never brought up for vote on the Senate Floor.

AB 1681 (Yamada) of 2010 was similar to AB 413. AB 1681 was vetoed by Governor Schwarzenegger, who expressed concern that "with limited options to vote in-person citizens—especially poor, elderly, and disabled voters—would not have sufficient opportunity to vote."

AB 1228 (Yamada) of 2009 was similar to AB 1681, except that AB 1228 would have allowed both Yolo and Santa Clara Counties to participate in the all-mail ballot pilot project. AB 1228 was vetoed by Governor Schwarzenegger for the same reasons stated in his veto message of AB 1681 above.

REGISTERED SUPPORT / OPPOSITION:

Support

County of San Diego (sponsor)
California Association of Clerks and Election Officials (if amended)
California State Association of Counties
California State Association of Letter Carriers
County of San Bernardino
Rural County Representatives of California
San Mateo County Board of Supervisors
Sonoma County Board of Supervisors
Urban Counties Caucus

Opposition

Asian Americans Advancing Justice-Los Angeles (unless amended)
Disability Rights California (unless amended)

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

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2028 (Mullin) – As Amended: April 28, 2014

SUBJECT: All-mailed ballot elections: San Mateo County.

SUMMARY: Authorizes San Mateo County to participate in an ongoing pilot project that allows certain elections to be conducted entirely by mailed ballot. Specifically, this bill:

1) Allows San Mateo County to join a pilot program currently underway in Yolo County, under which Yolo County is permitted to conduct all-mailed ballot elections on up to three different dates through January 1, 2018, subject to certain conditions and reporting requirements.

2) Modifies one of the conditions of the pilot program such that the number of ballot dropoff locations required to be provided at an all-mailed ballot election is either one location per city or one location per 100,000 residents, whichever results in more dropoff locations, instead of one location per city.

EXISTING LAW:

1) Allows elections held on no more than three different dates in Yolo County to be conducted wholly by mail, as part of a pilot project lasting through January 1, 2018, subject to the following conditions:

   a) The governing body of the city, county, or district, by resolution, authorizes the all-mailed ballot election and notifies the Secretary of State (SOS) of its intent to conduct an all-mailed ballot election at least 88 days prior to the date of the election;

   b) The election does not occur on the same date as a statewide primary or general election or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted as an all-mailed ballot election, and is not a special election to fill a vacancy in a state office, the Legislature, or Congress;

   c) At least one ballot dropoff location is provided in each city within the jurisdiction and is open during business hours to receive voted ballots beginning 28 days before the date of the election and until 8 p.m. on the day of the election;

   d) At least one polling place is provided per city where voters can request a ballot between 7 a.m. and 8 p.m. on the day of the election if they need a replacement ballot;

   e) The elections official delivers to each voter all supplies necessary for the use and return of the mail ballot, including an envelope for the return of the voted mail ballot with postage prepaid;

   f) The elections official posts on the Web site of the county elections office and delivers to each voter, with either the sample ballot or with the voter's ballot, a list of the ballot

dropoff locations and polling places provided; and,

g) The polling places provided are at accessible locations and are equipped with voting units or systems that are accessible to individuals with disabilities.

2) Requires, if Yolo County conducts an all-mailed ballot election pursuant to the pilot project described above, that the county report to the Legislature and to the SOS regarding the success of the election. Requires the report to include, but not be limited to, statistics on the cost to conduct the election; the turnout of different populations, including, but not limited to, the population categories of race, ethnicity, age, gender, disability, permanent vote by mail (VBM) status, and political party affiliation, to the extent possible; the number of ballots that were not counted and the reasons why they were rejected; voter fraud; and, any other problems that became known to the county during the election or canvass. Requires the report, whenever possible, to compare the success of the all-mailed ballot election to similar elections not conducted wholly by mail in the same jurisdiction. Requires the report to be submitted to the Legislature within six months after the date of an all-mailed ballot election or prior to the date of any other all-mailed ballot election conducted pursuant to the pilot project, whichever is sooner.

3) Permits an election to be conducted wholly by mail if the governing body authorizes the use of mailed ballots for the election, the election occurs on an established mailed ballot election date, and the election is one of the following:

a) An election in which no more than 1,000 registered voters are eligible to participate;

b) An election in a city, county, or district with 5,000 or fewer registered voters that is restricted to the imposition of special taxes, expenditure limitation overrides, or both;

c) An election on the issuance of a general obligation water bond;

d) An election in one of four specifically enumerated water districts; or,

e) An election or assessment ballot proceeding required or authorized by the state constitution under Proposition 218.

4) Authorizes a city with a population of 100,000 or less or a school district to conduct any special election held to fill a vacancy as an all-mailed ballot election.

5) Authorizes a district to conduct any election as an all-mailed ballot election on any date other than an established election date.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

1) Purpose of the Bill:

In recent years, the percentage of California voters who cast mail-in ballots has increased dramatically, and it is especially great in special elections. Last year more than 80% of voters cast their ballots by mail in some cases. At the same time, these special elections see abysmal turnout levels, at times dipping below 10% of eligible voters.

Research from the University of California San Diego indicates that when special elections are conducted by mail, turnout levels increase by close to eight percentage points in California. An increase of this magnitude could mean nearly doubling turnout rates in some jurisdictions. In addition, the policy has the potential to save taxpayer dollars because mail-ballot elections typically cost much less than traditional polling place elections.

In 2011 the legislature authorized a pilot project to examine the effects of vote-by-mail elections on turnout levels in special elections. The project only applied to one rural county, and it capped the number of mail-in elections at three; it is set to expire in 2018. Last year, elections were conducted on one out of the three total permissible election dates, and a subsequent election report demonstrated no significant increase or decrease in turnout, even when turnout levels were broken down by ethnicity. The report did, however, indicate a total cost-savings of about 43%. In the end, it called for more data on all-mail elections in California.

Because there are only two permissible all-mail special election dates left under the pilot, the legislature should expand the program to gather more data. In doing so, an urban county should be included to contrast the rural county that is already part of the program. San Mateo County is a great candidate: it is an urban county and, as a charter county, it already conducts some special elections by mail, so an all-mail infrastructure is already in place. By adding San Mateo County to the pilot, AB 2028 proposes a modest program expansion.

2) Vote By Mail and Permanent Vote By Mail Voting: Under state law, any voter can request a VBM ballot for any election, and any voter can become a permanent VBM voter. Permanent VBM voters automatically receive a ballot in the mail for every election, without the need to re-apply for a VBM ballot. As such, any voter who prefers to vote by mail has the ability to do so under existing law.

Among the arguments that supporters of all-mailed ballot elections frequently make in support of such elections is that all-mailed ballot elections are more convenient for voters. However, it is not clear whether this is the case. Any voter who finds it more convenient to vote by mail has the option to do so under existing law, and voters who want to vote by mail at every election can sign up for permanent VBM status. Some voters, due to physical disability or language issues, may prefer to vote at the polls in order to take advantage of access or help provided by electronic voting machines or bilingual poll workers.

3) Yolo County Pilot Project: In 2011, the Legislature approved and the Governor signed AB 413 (Yamada), Chapter 187, Statutes of 2011, which created a pilot program allowing Yolo County to conduct local elections on not more than three dates as all-mailed ballot elections. AB 413 was intended to serve as a pilot project to evaluate the desirability of further expanding the circumstances under which elections are permitted to be conducted as all-mailed ballot elections. Yolo County conducted all-mailed ballot elections last March in the City of Davis and the Washington Unified School District as permitted by AB 413, and submitted its report on those elections last December. The pilot project in Yolo County was authorized following a prior pilot project in Monterey County that failed to provide useful information about the impacts of all-mailed ballot elections because the report filed by Monterey County as part of the pilot project lacked much of the information that was necessary to evaluate the impacts of the pilot project.

   The report prepared in connection with the first two elections conducted in Yolo County under the pilot project found that turnout at the all-mailed ballot elections conducted as part of the pilot project was not significantly different than similar polling place elections held in the two jurisdictions in prior years. The study also found that turnout rates broken down by age, ethnic background, party preference, and permanent VBM status was consistent and similar between the polling place and the all-mailed ballot elections. The study found that data provided on the cost to conduct all-mailed ballot elections was inconclusive in determining whether there are significant savings to moving to all-mailed ballot elections. However, the study also cautioned that Davis—one of the jurisdictions in which the pilot was conducted—"is a relatively affluent, homogenous community with a higher level of educational achievement than most other areas of the state" and so the results "are not necessarily applicable to other, dissimilar communities." The report also noted that the effects of all-mailed ballot elections on turnout would not necessarily be similar in general elections.

   Yolo County is permitted to conduct local elections as all-mailed ballot elections on two additional dates before the conclusion of the pilot project.

4) United States Postal Service Facility Closures and Mail Delays: In 2012, this committee and the Senate Elections and Constitutional Amendments Committee held a joint oversight hearing to discuss United States Postal Service (USPS) facility closures and the impact on voters and upcoming elections. During the hearing, state and county elections officials testified about the impact that recent post office and processing facility closures had on their jurisdictions and on local elections, as well as the anticipated challenges with more closures expected.

   According to testimony from elections officials, one of the most significant impacts those closures had on the election process is that there had been significant delays in mail delivery in some circumstances. Elections officials from counties that were previously served by closed facilities indicated that some first class mail took five to seven days to arrive after closures of USPS facilities, compared to the usual delivery time of one to three days. Since that hearing, the USPS has announced further plans for changes in mail delivery procedures that also have the potential to delay mail delivery. Finally, the USPS and Congress have considered proposals to end Saturday mail delivery as a way to cut costs.

The committee may wish to consider whether it is appropriate to permit all-mail ballot elections to be used in a broader range of circumstances when closures and operational changes by the USPS may result in mail delivery delays, and otherwise make mail delivery less reliable.

5) Related Legislation: AB 1873 (Gonzalez and Mullin), which is also being heard in this committee today, allows special elections to fill vacancies in the Legislature and Congress to be conducted entirely by mailed ballot, and allows any city or county special election to be conducted entirely by mailed ballot, among other provisions.

6) Previous Legislation: SB 304 (Kehoe) of 2011 would have authorized elections in San Diego County to be conducted wholly by mail until January 1, 2016, if specified conditions were satisfied. SB 304 was never heard in committee.

   SB 1102 (Liu) of 2010 would have permitted a special primary or run-off election to fill a legislative or congressional vacancy to be conducted wholly by mail provided that the board of supervisors of each county within the affected jurisdiction authorized the all-mail ballot election. SB 1102 was never brought up for vote on the Senate Floor.

   AB 1681 (Yamada) of 2010 was similar to AB 413. AB 1681 was vetoed by Governor Schwarzenegger, who expressed concern that "with limited options to vote in-person citizens—especially poor, elderly, and disabled voters—would not have sufficient opportunity to vote."

   AB 1228 (Yamada) of 2009 was similar to AB 1681, except that AB 1228 would have allowed both Yolo and Santa Clara Counties to participate in the all-mail ballot pilot project. AB 1228 was vetoed by Governor Schwarzenegger for the same reasons stated in his veto message of AB 1681 above.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Counties
San Mateo County Board of Supervisors
Urban Counties Caucus

Opposition

Disability Rights California (unless amended) (prior version)

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

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2093 (Grove) – As Amended: March 28, 2014

SUBJECT: Petitions: filings.

SUMMARY: Modifies statewide initiative and referendum petition filing deadlines. Specifically, this bill:

1) Permits a statewide initiative or referendum petition, if the last day to file a petition is a holiday, as defined by current law, to be filed with the county elections official on the next business day. Prohibits a petition from being circulated after the petition deadline and provides that a signature obtained after that deadline shall be invalid.

2) Makes the following Legislative findings and declarations:

   a) Under the California Constitution, an initiative or referendum may be proposed by presenting to the Secretary of State (SOS) a petition containing a specified number of signatures. The California Constitution requires that a petition for a referendum measure be submitted within 90 days of the date of enactment of the statute that is the subject of the referendum, and state law requires that a petition for an initiative measure be submitted within 150 days of the date of the circulating title and summary furnished by the Attorney General.

   b) In some instances, the final day to submit an initiative or referendum petition falls on a holiday, when the offices of state and county elections officials are closed. In those circumstances, the proponents of an initiative or referendum measure are faced with the choice of either submitting the petition prior to the holiday, in which case the period to gather signatures would be reduced, or submitting the petition after the holiday, in which case the proponents would risk rejection of the petition as untimely.

   c) While the California Constitution specifies a period of 90 days to gather signatures for a referendum measure, it gives no guidance as to how to construe the 90-day period in those instances in which the final day falls on a holiday.

   d) The courts of this state have long held that the initiative and the referendum are sacred rights of the people and provisions of law shall be liberally construed to give full effect to the powers of initiative and referendum.

   e) The framers of the California Constitution did not intend that the powers of initiative or referendum should be frustrated by the mere happenstance that the final day to submit a petition falls on a holiday.

   f) It is a general and well-accepted rule of law that, when the last day to perform an act falls on a holiday, the time in which to perform that act is extended to the next business day.

g) It is the intent of the Legislature in enacting this act to preserve the people's right of initiative and referendum by clarifying that, in those instances in which the final day to submit a petition falls on a holiday, the proponents of the initiative or referendum measure may submit the petition on the next business day following the holiday.

EXISTING LAW:

1) Provides that the initiative is the power of the electors to propose statutes and amendments to the California Constitution and to adopt or reject them.

2) Provides that a referendum is the power of the electors to approve or reject statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

3) Requires a petition for a proposed statewide initiative to be filed with the county elections official not later than 150 days from the official summary date. Prohibits a county elections official from accepting a petition for the proposed initiative measure after that period.

4) Requires a petition for a proposed statewide referendum to be filed with the county elections official not later than 90 days from the date of the enactment of the bill. Prohibits a county elections official from accepting a petition for the proposed referendum after that period.

5) Prohibits a petition for a proposed initiative or referendum from being circulated for signatures prior to the official summary date.

6) Requires the Legislature to provide the manner in which petitions must be circulated, presented, and certified, and measures submitted to the electors.

7) Permits an act to be performed upon the next business day if the last day for the performance of any act provided for or required by the Elections Code is a holiday, as defined.

FISCAL EFFECT: Keyed non-fiscal by Legislative Counsel.

COMMENTS:

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

> The courts of this state have long held that the initiative and the referendum are sacred rights of the people.
>
> Most recently, on January 3 of this year, a Superior Court Judge ruled in Gleason v. Bowen that the Secretary of State violated California law by refusing to count petition signatures for a referendum filed in two counties which had refused delivery of petitions or were closed on the last business day before the 90-day filing deadline. The court ruled that by attempting to deliver petitions to county registrars within the 90 days, supporters had substantially complied with their legal requirements, and that the real deadline in this particular case should have been the following Tuesday due to the intervening holiday weekend.

In his ruling, the Judge cited a 1915 decision by the state Supreme Court which stated that referendum power "should be liberally construed and should not be interfered with by the courts except upon a clear showing that the law is being violated." (Laam v. McLaren). The Judge further ruled that he "sees no basis to effectively diminish the people's referendum power here by giving Petitioner only 88 days to collect signatures and submit her petition to elections officials."

An initiative or referendum effort should not be hindered and reduced merely because the final day to submit a petition happens to land on a holiday.

By passing AB 2093, this point will be expressed clearly in statute, reducing the possibility of additional confusion and disagreement over initiative and referendum petition dates.

2) Initiative & Referendum Procedures: Article II, Section 8 of the California Constitution provides that an initiative is the power of the electors to propose statutes and amendments to the California Constitution and to adopt or reject them. In addition, Article II, Section 9 of the California Constitution provides that a referendum is the power of the electors to approve or reject statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

   Current state law requires a petition for a proposed statewide initiative to be filed with the county elections official not later than 150 days from the official summary date, and prohibits a county elections official from accepting a petition for the proposed initiative measure after that period. Article II, Section 9 of the California Constitution requires a petition for a proposed statewide referendum to be filed with the county elections official not later than 90 days from the date of the enactment of the bill, and state law prohibits a county elections official from accepting a petition for the proposed referendum after that period.

3) Referendum History: According to the SOS's office, referenda are fairly rare in comparison to initiative measures. Between 1912 and February 2014, a total of 79 referenda were titled and summarized for circulation, a total of 30 referenda (37.97%) failed to qualify for the ballot, and a total of 48 referenda (62.03%) qualified for the ballot. Of the 48 referenda that qualified for the ballot and have been voted on, 20 referenda (41.67%) were approved by the voters and a total of 28 referenda (58.33%) were rejected by the voters.

4) Constitutionality: In 2013, the Legislature passed and the Governor signed AB 1266 (Ammiano), Chapter 85, Statutes of 2013, which amended the Education Code to allow pupils to participate in school activities and use facilities based on gender identity. Petitioners sought to qualify a referendum asking voters to reject AB 1266 and the petitioner filed a request for title and summary for a referendum of the statute. The title and summary was issued on August 26, 2013, along with the circulating and filing schedule for the referendum. Article II, section 9 of the California Constitution requires a petition for a referendum to be presented to the SOS within 90 days after the enactment date of the statute. State law implements this constitutional provision and requires a petition for a proposed referendum measure to be filed with the county elections official not later than 90 days from the date the legislative bill was chaptered by the SOS. As a result, the referendum filing

scheduled stated that the last day to file referendum petitions with the county elections officials was Sunday, November 10, 2013. However, the 90 day requirement was complicated in this instance because the 90th day fell on a Sunday and the following day, November 11th, was a holiday (Veteran's Day), when counties offices were not open. Due to the holiday and the closure of county offices, referendum petitions from Mono and Tulare counties were not submitted within the 90 day deadline. Consequently, the SOS refused to accept petitions submitted to Mono and Tulare Counties on the grounds that the petitioner's filings were untimely and submitted after the November 10th deadline.

Earlier this year, a lawsuit was filed against the SOS challenging the rejected referendum petition signatures and requesting the court to require the SOS to accept, file, and process, as timely, the petitions delivered to Mono and Tulare counties. In the lawsuit, the petitioner asserted that Elections Code Section 15 permits any act, if the last day for the performance of any act provided for or required by the Elections Code is a holiday, to be performed upon the next business day. As a result, the petitioner argued that under the above rule the petitioner had until Tuesday, November 12th to file her petitions with the county election officials and that Tulare and Mono counties had a ministerial duty, under the California Constitution, to accept the petition materials up to, and until the expiration of the 90 day deadline. In addition, the petitioner argued that the doctrine of "substantial compliance" applies to the constitutional requirements pertaining to the referendum process. The petitioner further argued that the petitioner substantially complied with the 90 day filing limit so that her failure to actually file the Mono and Tulare county petitions within that time limit should be forgiven and if there was a departure from the constitutional requirements it was minor and did not undermine or frustrate the basic purposes by the statutory requirements in ensuring the integrity of the initiative or referendum process.

The Superior Court ruled in favor of the petitioner's request for a Writ of Mandate directing the SOS to accept, file, and process as timely the petitions delivered by the petitioner to Mono and Tulare Counties. In the ruling, the judge cited a 1915 decision by the state Supreme Court which stated that referendum power "should be liberally constructed and should not be interfered with by the courts except upon clear showing that the law is being violated." (*Laam v. McLaren* (1915) 28 Cal.App.632, 638.) The SOS has since appealed the court's ruling and this issue is still pending in the courts.

In an effort to bring clarity to state law, this bill permits a statewide initiative or referendum petition, if the last day to file a petition is a holiday, to be filed with the county elections official on the next business day. Additionally, this bill prohibits a petition from being circulated after the petition deadline, in accordance with existing law, and provides that a signature obtained after that deadline shall be invalid. According to the author, an initiative or referendum effort should not be hindered and reduced because the final day to submit a petition happens to land on a holiday. AB 2093 will reduce the possibility for additional confusion and disagreement over initiative and referendum petition dates.

While the author's effort to reduce confusion and disagreement over initiative and referendum petitions deadlines is laudable, the committee may wish to consider whether it is prudent to support a policy change that is currently pending in the courts. Because the SOS has appealed the ruling, it may be prudent to wait for the courts to rule on this policy issue

before making changes to our laws.

5) Secretary of State's Current Initiative and Referendum Practices: Statewide initiatives and referenda have distinctly different petition filing deadline requirements. Current state law requires a petition for a proposed statewide initiative to be filed with the county elections official not later than 150 days from the official summary date, and prohibits a county elections official from accepting a petition for the proposed initiative measure after that period. Additionally, Elections Code Section 15 permits an act to be performed upon the next business day if the last day for the performance of any act provided for or required by the Elections Code is a holiday, as defined. As a result, it has been the longstanding practice that when a deadline for a proposed initiative measure falls on a weekend or holiday, the deadline rolls forward to the next business day. However, this only applies to dates set in statute in the Elections Code, not to deadline dates set forth in the California Constitution.

   Because the deadlines for statewide referendum are in the California Constitution, it is unclear whether the Legislature, by state statute, can extend deadlines established by the Constitution. As a result, it has been the longstanding practice for the SOS, should a filing deadline fall on a weekend, to request county registrars to briefly open their offices on the weekends. According to SOS's court filings, at the request of the petitioner, the SOS coordinated a conference call with 17 county registrars requesting them to briefly open on Sunday for the filing of the referendum petitions. The petitioner did not request Sunday filings for Mono and Tulare counties. By not making the same request of Mono and Tulare counties, the petitioner assumed the risk that petitions would not be timely filed in those counties.

6) Enforcement: This bill provides that if an initiative or referendum filing deadline falls on a holiday, the deadline is extended to the next business. In addition, this bill prohibits a petition from being circulated after the petition deadline and provides that a signature obtained after that deadline shall be invalid. While the author's intent to prevent proponents from collecting signatures after the deadline is laudable, the committee may wish to consider how these provisions will be enforced. When a voter signs a petition, current law requires each signer to personally affix his or her signature, printed name, residence address, and city on the petition. Current law does not require the signer to provide the date that he or she signed the petition. Moreover, existing law requires a petition circulator to provide the dates between which all the signatures on a petition were obtained. It is unclear how this bill will be enforced when there is no way to know if an individual signature is collected after the deadline because signatures are not required to be dated.

   On the other hand, it has been the longstanding practice that when a deadline for a proposed initiative measure falls on a weekend or holiday, the deadline rolls forward to the next business day. When this occurs, initiative proponents are given an extra day or so to circulate and submit the petitions to the county elections official. If this bill is approved by this committee, the committee may wish to amend the bill to apply the same standard to referenda and amend the bill as follows:

   On page 3, in lines 22 to 25, delete the following:

   However, a petition filed pursuant to this subdivision shall not be circulated after the petition

filing deadline specified in subdivision (b) or (c), and a signature obtained after the deadline shall not be valid.

7) Technical Amendment: As mentioned above, there is pending litigation dealing with the issues raised by this bill. In addition, there is another lawsuit, *Pacific Justice Institute v Bowen* (2014), pending in the court that argues that referendum petitions signatures were improperly invalidated. In order to ensure this bill does not affect the ongoing litigation, the committee may wish to amend the bill to specify that it shall not be construed to affect the ongoing litigation.

8) Arguments in Support: The Howard Jarvis Taxpayers Association writes in support:

> This bill comes in response to problems that occurred during the signature gathering process for the so-called "bathroom bill" referendum earlier this year. While [Howard Jarvis Taxpayers Association] took no formal position on either the legislative bill or subsequent referendum, we believe the desire of voters to engage in the initiative or referendum process should not be hindered because county elections offices are not open, or refuse to accept, valid petition signatures on the day they are submitted.

REGISTERED SUPPORT / OPPOSITION:

Support

Howard Jarvis Taxpayers Association

Opposition

None on file.

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

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2233 (Donnelly) – As Amended: March 28, 2014

SUBJECT: Primary elections: petitions: signatures.

SUMMARY: Reduces the number of signatures that a candidate needs at a special vacancy election on a petition in lieu of paying a filing fee in proportion to any reduction in the amount of time to collect signatures. Specifically, this bill provides that if the number of days for a candidate to collect signatures on a petition in lieu of a filing fee for a special election that is held to fill a vacancy is less than the number of days that a candidate would have to collect signatures on a petition at a regular election for the same office, the elections official shall reduce the required number of signatures for the petition by the same proportion as the reduction in time for the candidate to collect signatures.

EXISTING LAW:

1) Requires a person who seeks to have his or her name printed on the ballot as a candidate for an office at the direct primary election to file a declaration of candidacy and nomination papers.

2) Requires a candidate for specified offices to pay a fee to file the declaration of candidacy. Provides that the amount of the fee is established as follows:

   a) In the case of United States Senator or any statewide office, two percent of the first-year salary for the office;

   b) In the case of Representative in Congress, member of the Board of Equalization, justice of the court of appeal, state Senator, or Member of the Assembly, one percent of the first-year salary;

   c) In the case of a county or judicial office to be voted only wholly within one county, one percent of the annual salary of the office provided, however, that no filing fee shall be charged for any office for which the annual salary is $2,500 or less.

3) Permits a candidate to submit a petition containing signatures of registered voters in lieu of paying a filing fee. Allows any registered voter to sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote. Requires a candidate to collect the following number of signatures on an in-lieu-filing-fee petition in order to cover the full amount of the filing fee that is required to be paid:

   a) For the office of Member of the Assembly, 1,500 signatures;

   b) For the office of state Senate or Representative in Congress, 3,000 signatures;

c) For statewide office, 10,000 signatures; and,

d) For all other offices for which a filing fee is required:

i) If the number of registered voters in the district is 2,000 or more, four signatures for each dollar of the filing fee or 10 percent of the total of registered voters in the district, whichever is less; or,

ii) If the number of registered voters in the district is less than 2,000, four signatures for each dollar of the filing fee or 20 percent of the total of registered voters in the district, whichever is less.

4) Provides that if the number of signatures collected on an in-lieu-filing-fee petition is less than the total number of signatures needed to cover the filing fee, the filing fee shall be pro-rated based on the number of signatures collected on the petition.

5) Permits a candidate to begin soliciting signatures on an in-lieu-filing-fee petition 45 days before the first day for circulating nomination papers, and requires an in-lieu-filing-fee petition to be filed at least 15 days prior to the close of the nomination period. Requires an elections official to notify the candidate of any deficiency on the in-lieu-filing-fee petition within 10 days after receipt of the petition, and permits a candidate to submit a supplemental petition or to pay a pro rata portion of the filing fee to cover any deficiency. Provides that the period for a candidate to circulate nomination papers to appear on the ballot at a primary election shall begin 113 days before the primary election, and shall end 88 days before the primary election.

6) Provides that in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the nomination period would commence less than 45 days after the creation of the vacancy, the forms for soliciting signatures on an in-lieu-filing-fee petition shall be made available within five working days after the creation of the vacancy, at which point a candidate may begin soliciting signatures on such a petition.

7) Requires the Governor, when a vacancy occurs in the office of Representative to Congress, or in either house of the Legislature, to issue a writ of election to fill the vacancy within 14 calendar days after the occurrence of the vacancy, except as otherwise provided.

8) Requires a special general election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly to be conducted on a Tuesday at least 126 days, but not more than 140 days, following the issuance of the writ of election, except that the special election may be conducted within 180 days following the writ in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy. Requires the special primary election to be held on either the ninth Tuesday or the tenth Tuesday prior to the special general election. Provides that the period for a candidate to circulate nomination papers to appear on the ballot at the special primary election shall begin 73 days before the

primary election, and shall end 53 days before the primary election.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

> This is a simple bill that will allow more access to special elections. Currently, the number of signatures required in a special election are the same amount required in a regularly scheduled election, even though the number of days to collect those signatures is usually far less. By dropping the number of signatures required in proportion to the number of days a candidate has to collect those signatures, we would be allowing the public better access to the ballot.

2) Filing Fees and Signatures in Lieu Petitions: California law requires candidates for many elective offices to pay a filing fee at the time they obtain nomination papers from the elections official. Filing fees are intended, in part, to help cover the administrative costs of conducting the election, but also serve as a means of limiting the size of the ballot in order to reduce voter confusion, prevent overwhelming voting systems, and allow the electorate to focus attention on a smaller number of candidates in order that elections may better reflect the will of the majority. Courts have long recognized that states have a legitimate interest in regulating the number of candidates on the ballot for these reasons.

   At the same time, courts have also found that a state cannot require candidates to pay a filing fee in order to appear on the ballot unless the state also provides a reasonable alternative means of ballot access. In Lubin v. Panish (1974) 415 U.S. 709, the United States Supreme Court found that a California law that required certain candidates for office to pay a filing fee in order to appear on the ballot was unconstitutional because the law did not provide an alternate means of qualifying for the ballot for indigent candidates who were unable to pay the fee. In finding California's filing fee law to be invalid, the court noted that there were other "obvious and well known means of testing the 'seriousness' of a candidacy which do not measure the probability of attracting significant voter support solely by the neutral fact of payment of a filing fee," including a requirement for a candidate who cannot pay the filing fee to "demonstrate the 'seriousness' of his candidacy by persuading a substantial number of voters to sign a petition in his behalf."

   In response to the Supreme Court's decision in Lubin, the Legislature enacted and the Governor signed AB 914 (Ray Gonzales), Chapter 454, Statutes of 1974, an urgency measure that permitted candidates to file petitions containing the signatures of a specified number of registered voters in lieu of paying a filing fee. The number of signatures required to be collected in lieu of paying a filing fee has remained largely unchanged since the signatures-in-lieu procedure was originally adopted in 1974, notwithstanding the fact that the number of registered voters in California has increased by more than 77 percent since that time.

3) Special Elections & Candidate Filing Timelines for Affected Offices: This bill affects only elections for offices for which candidates are required to pay a filing fee, and for which a special election is held to fill a vacancy. While local elective bodies call special elections in

some circumstances to fill vacancies, many such vacancies are filled by appointment. Additionally, even in cases where a special election is held, the period for collecting signatures on in-lieu petitions often is not shortened. This bill, however, frequently will affect special elections held to fill vacancies in the Legislature and in the United States House of Representatives.

When a vacancy occurs in the office of Representative to Congress, or in either house of the Legislature, the Governor is required to act within 14 calendar days to call a special election to fill that vacancy, unless the vacancy occurs after the close of the nomination period in the final year of the term of office. When calling the special election, the Governor sets the date of the special *runoff* election, which generally must be held between 126 days and 140 days after the date that the Governor calls the special election, though it can be held as much as 180 days later when doing so allows for the election to be consolidated with another election being held in an overlapping area, subject to certain conditions. The special *primary* election is then held either nine or ten weeks prior to the scheduled special runoff election, as specified by law. Taking into consideration the amount of time that the Governor has to schedule the special election, and the window within which the runoff election must be scheduled, a special primary election can occur anywhere between 56 days and 131 days after a vacancy occurs in the Legislature or Congress. The deadline for filing nomination papers at a special election in these circumstances falls 53 days before the special primary election.

In a regular election, candidates have 56 days to collect signatures on a petition in lieu of a filing fee. Given that a special vacancy election can occur as soon as 56 days after the creation of the vacancy, however, the period for collecting signatures on an in lieu petition at a special vacancy election can be considerably shorter. In fact, because state law gives elections officials up to five working days after a vacancy occurs to make in lieu petitions available, it is theoretically possible that the deadline for elections officials to make those petitions available could fall after the deadline for candidates to file nomination papers. In practice, however, in lieu petitions are generally made available on the same day that the Governor calls the special election, if not earlier, and the deadlines for submitting in lieu petitions are adjusted as appropriate based on the amount of time available until the deadline for candidates to file nomination papers. In practice, for special elections held during the 2013-2014 Legislative session, candidates have had between three and 42 days to collect signatures on in lieu petitions, as detailed below.

Special Election District	Days to Collect Signatures on In Lieu Petitions	Signatures Required Under AB 2233	Value Per Signature Under Existing Law	Value Per Signature Under AB 2233
SD 4	4	215	$0.317636	$4.432140
SD 40	5	268	$0.301753	$3.377836
SD 32	5	268	$0.301753	$3.377836
SD 16	15	804	$0.301753	$1.125945
AD 80	3	81	$0.603507	$11.176049
AD 52	8	215	$0.603507	$4.210512
SD 26	18	965	$0.301753	$0.938093
AD 45	18	483	$0.603507	$1.874244

AD 54	5	134	$0.603507	$6.755672
SD 23	42	2250	$0.317636	$0.423516

As demonstrated above, this bill would significantly reduce the number of signatures that candidates need to receive in lieu of paying a filing fee for some special elections, and will significantly increase the value of each signature received for those candidates who collect some, but not all, of the necessary signatures. As a result, this bill could increase the number of candidates that run for office at special elections. Additionally, this bill could reduce the revenue received from candidate filing fees.

4) Proliferation of Candidates & Possible Amendment: In an extreme case, if a special election were called to fill a vacancy in the Assembly at such a time that only one day was allowed to collect signatures on in lieu petitions, this bill would require a candidate at that special election to collect just 27 signatures on an in lieu petition in order to appear on the ballot without the payment of a filing fee. Although it may not be easy to collect 27 signatures in such a situation, it may be considerably easier for candidates than it would be to collect 1500 signatures in a 56 day period, since a candidate is likely to be able to collect the signatures of family members and friends relatively quickly. In such a situation, if it is too easy for candidates to collect the signatures needed to avoid paying the filing fee, the filing fee requirement may not serve its purpose of regulating the number of candidates on the ballot. To protect against this potential, the author and the committee may wish to consider an amendment to provide that not less than 100 signatures are needed on an in-lieu-filing-fee petition for an election to fill a vacancy in the Legislature or Congress, regardless of the number of days that a candidate has to collect signatures on such a petition.

5) Technical Issue & Suggested Amendment: This bill requires the number of signatures needed on an in lieu petition to be reduced for a special vacancy election in proportion to any reduction in the number of days that a candidate would have to collect signatures on a petition at a regular election for the same office. However, because a candidate can submit a supplemental petition with signatures in lieu of paying a filing fee, it is unclear whether the "number of days" that a candidate has to collect signatures at a regular election includes the time period under which a candidate could collect signatures on a supplemental petition. In order to clarify this ambiguity, committee staff recommends that this bill be amended to clarify that the amount of time that a candidate has to collect signatures on an in lieu petition is based on the number of days between the time that such petitions are made available and the time that such petitions must be submitted, and does not include any time that a candidate would be permitted to collect signatures on a supplemental petition as permitted by law.

6) Arguments in Support: In support of this bill, the Peace and Freedom Party of California writes:

> As a result of the passage of Proposition 14 and its implementing legislation, the number of signatures in lieu of filing fees has increased from a maximum of 150 valid signatures in lieu of filing fees for candidates of the smaller parties to 10,000 valid signatures for our statewide candidates. This increase in the number of signatures is a major concern of California's three smallest parties and has caused a 70% drop in the number of candidates from these parties.

Even before the implementation of Proposition 14, the signature-in-lieu requirements were unfair to all candidates in the case of special elections to fill vacancies. AB 2233 reduces the number of signatures in lieu of filing fees in special elections in proportion to the reduction in the number of days needed to gather those signatures. This is necessary because when a special election is called the number of days to collect signatures in lieu is often drastically reduced, making them much more difficult to collect. While it does not reduce the number of signatures in lieu of filing fees, it does make an impossible situation somewhat better.

REGISTERED SUPPORT / OPPOSITION:

Support

Coalition for Free and Open Elections
Peace and Freedom Party of California

Opposition

None on file.

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

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

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2369 (Hagman) – As Introduced: February 21, 2014

SUBJECT: Elections: voter-requested recounts.

SUMMARY: Modifies provisions of law that govern who can pay for a recount. Specifically, this bill, requires a voter or the candidate-controlled campaign committee represented by the voter that files a request seeking a recount to deposit money to pay for the recount from the voter's own personal funds or from funds of the candidate-controlled campaign committee of the candidate on whose behalf the recount is being requested.

EXISTING LAW:

1) Defines "voter" to mean an elector who is registered pursuant to current law.

2) Allows any voter, within five days following the completion of the official canvass and following the completion of any postcanvass risk-limiting audit conducted pursuant to existing law, to request in writing that the elections official responsible for conducting an election commence a recount of the votes cast for candidates for any office or for or against any measure, provided the office or measure is not voted on statewide. Allows a recount for an election that is conducted in more than one county to be conducted in any or all of the affected counties.

3) Allows any voter, following the completion of the official canvass and within five days beginning on the 29th day after a statewide election, to file with the Secretary of State (SOS) a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. Allows any voter, within five days following the completion of any postcanvass risk-limiting audit conducted pursuant to existing law, to file with the SOS a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. Requires a request filed to specify in which county or counties the recount is sought and specify on behalf of which candidate, slate of electors, or position on a measure it is filed.

4) Permits any other voter, at any time during the conduct of a recount and for 24 hours thereafter, to request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

5) Requires a voter seeking the recount, before the recount is commenced and at the beginning of each subsequent day, to deposit with the elections official the amount of money required by the elections official to cover the cost of the recount for that day.

FISCAL EFFECT: Keyed non-fiscal by Legislative Counsel.

COMMENTS:

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

> While current law requires the voter requesting the recount to deposit the funds required, the law is unclear from where those funds are allowed to come. AB 2369 clarifies existing law by explicitly stating that funds for the recount have to be provided by the voter's personal funds or funds from the voter's controlled campaign committee. This bill won't stop outside sources from being able to contribute [to] a recount effort, but ensures transparency and accountability within the recount process, as voters can easily track campaign contributions. However, AB 2369 will prevent direct 3rd party contributions towards an election recount. It is vital that we provide clarity under current law to bring transparency to election recounts. Voters deserve to know not only who requests a recount, but also how it is being funded.

2) Restrictions on Who Pays for a Recount: Existing law permits any registered voter to request a recount within five days following the completion of the official canvass. The voter requesting the recount must specify on behalf of which candidate, slate of electors, or position on a measure it is filed. Additionally, at any time during the conduct of a recount and for 24 hours thereafter, current law allows any voter other than the original requestor to request a recount of additional precincts. The voter filing the request for the recount is required to deposit, before the recount commences and at the beginning of each day following, sums as required by the elections official to cover the cost of the recount for that day. If upon completion of the recount, the results are reversed, the deposit shall be returned.

   This bill restricts who may pay for a recount. Specifically, this bill requires a voter that requests a recount to pay for the recount from his or her own personal funds and requires a candidate controlled campaign committee that requests a recount to use funds from the candidate-controlled campaign committee of the candidate on whose behalf the recount is being requested to pay for the recount. According to the author, the law is unclear and there is confusion on where funds are actually allowed to come from to pay for the recount and voters deserve to know not only who requests a recount but also how it is being funded.

   The practical effect of this bill is that a recount can only be requested if it is paid for by a voter who uses his or her own personal funds or a candidate who uses his or her candidate campaign committee funds. This bill excludes other entities, such as a local political party, a ballot measure campaign committee, or a passionate advocacy organization interested and invested in the outcome of a particular candidate or a ballot measure, from being able to request a recount because the bill does not permit these entities to directly pay for the recount.

   It is possible that entities other than a candidate's campaign committee may be interested and invested in pursuing a recount to hopefully change the outcome of an election. One of the only ways in which another entity could plausibly request and pay for a recount would be if a candidate had a desire to request a recount and agreed to pay for it using funds from the candidate controlled campaign committee and the outside entity contributed to the candidate's controlled campaign committee to pay for the recount. The only other plausible alternative available to an outside entity would be if the entity was able to convince an

individual voter to request a recount on his or her behalf and then paid for it with his or her own personal funds.

In 1978, the Legislature passed and the Governor signed AB 3313 (Keysor), Chapter 847, Statutes of 1978, which made significant changes to recount processes and procedures. Specifically, AB 3313 allowed any voter to request and pay for a recount, instead of only allowing a candidate for office, an authorized representative of a candidate for office, or an authorized representative of a ballot measure to request and pay for a recount. According to bill documents obtained at the California Archives, the policy change to broaden who can request and pay for a recount was necessary because of the difficulty of identifying who is an "authorized representative" or should be entitled to request a recount, especially for ballot measures. According to the bill analysis, while it might be sufficient to provide that recounts could be only requested by the candidates themselves or by their representative, it is not the case for ballot measures. Furthermore, school and special district recounts avoided this problem by allowing "any voter" to seek a recount. Finally, the bill analysis states that it is unlikely that there will be a proliferation of recount requests since the person seeking the recount will have to pay the cost. It is clear that the Legislature made a conscious effort to change public policy and broaden who is allowed request and pay for a recount. This bill, which restricts who is able to pay for and request a recount, takes a step back and reverts public policy back to 1977.

3) Increased Transparency? According to the author's statement, while this bill won't stop outside sources from being able to contribute to a recount effort, it will however, ensure transparency and accountability within the recount process and provide clarity in the law as to who is able to pay for the cost of a recount and reveal how a recount is being funded. While the author's goal is laudable, the committee may wish to consider whether this bill truly provides sunshine on who is paying for a recount. This bill, which requires a voter that requests a recount to pay for the recount from his or her own personal funds may not truly reveal where those funds are coming from. A business or organization could contribute money to the person requesting the recount and the voter requesting the recount can then submit cash, a cashier's check, or a money order to cover the costs of the recount. So, while it may seem as though the recount is being paid by the personal funds of the voter, it is not entirely certain that is the case.

   Furthermore, if a candidate pays for a recount, it is already required it to be disclosed and reported under the Political Reform Act (PRA). Additionally, if a recount is paid for by third party in coordination with or at the request of a candidate it is already considered a reportable in-kind contribution under the PRA. Consequently, it is unclear how this bill will result in more transparency when current law already provides for disclosure.

4) Political Reform Act and Enforcement: In 1974, California voters passed an initiative, Proposition 9 that created the Fair Political Practices Commission (FPPC) and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. That initiative is commonly known as the PRA. The FPPC is responsible for enforcing state laws governing political campaigns, fundraising, lobbying, and conflicts of interest for elected officials. This bill, which requires a candidate controlled campaign committee to use funds from the candidate controlled campaign committee to pay for the recount, takes an aspect of the PRA and places it in the Elections Code. As a result, the FPPC would not be required to enforce these provisions of this bill and it is unclear who would enforce the requirements in

this bill. Would the enforcement of this bill fall into the hands of the elections official?

5) Other States: Each state has specific laws for conducting recounts. A recount can be initiated either automatically or by an individual or group of individuals. Some states require an automatic recount when the margin of victory falls within a predetermined percentage, such as 0.5 or one percent. According to a 2010 Election Assistance Commission's (EAC) draft Recounts and Contests Study, approximately 21 states and the District of Columbia have automatic recounts in some elections (California does not). Automatic recounts usually require the state to pay for the recount costs. The second type of recount is an initiated recount. Some states allow for candidate-initiated recounts that allow candidates to petition for a recount within a specified time period after certification of election results. According to the EAC draft study, 39 states and the District of Columbia have statutes or regulations authorizing candidate-initiated recounts. Additionally, there are citizen-initiated recounts allowed in 27 states and the District of Columbia, whereby a citizen may petition for a recount. It's common for the citizen who requested the recount to pay for the recount. As mentioned above, California law allows for any voter to request a recount.

   In addition, election recount laws vary greatly across states. According to EAC's draft study, "there are no common practices across states associated with what an entity pays for the cost of a recount. For automatic recounts, it is usually the state or government that pays for the recount. For initiated recounts, there are many different ways states cover the costs of recounts." For instance, according to the report, 27 states have laws that require a petitioner to pay the actual costs of the recount, one state requires petitioners to pay a pre-determined estimated cost, and 17 states have a fixed fee as determined by their state laws. Additionally, two states give the court or government direction in assessing the costs of a recount, and in one state, the law is not clear regarding how the actual cost of the recount is determined. Finally, in some states, the outcome of the initiated recount can affect the payment requirement, such as when the petitioner is declared the winner, he or she often does not have to pay for the recount. California statute requires the voter that requested the recount to pay for the recount. If upon completion of the recount, the results are reversed, the payment is returned to the requestor.

   As mentioned above, this bill requires a voter that requests a recount to pay for the recount from his or her own personal funds and requires a candidate controlled campaign committee that requests a recount to use funds from the candidate-controlled campaign committee. The author argues that other states clarify that the voter or candidate requesting the recount must pay for it at their own expense. The author's office provided the committee with two examples of states that make this clarification – Minnesota and Colorado. Minnesota requires a candidate to request a full or partial recount at his or her own expense. However, Minnesota state law allows for statewide automatic recounts. Specifically, if the margin between the two top candidates falls within one-half of one percent, an automatic hand recount is required. Moreover, in the instance that an automatic hand count is required, the taxpayers pay for the recount. However, if the vote margin is greater than the one-half of one percent, then Minnesota state law permits a candidate to request a full or partial recount, but it is at his or her own expense. Moreover, Colorado state law also provides for automatic recounts and states that a recount of any election contest shall be held if the difference between the highest number of votes cast in that election contest and the next highest number of votes cast in that election contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. Additionally, whenever a recount is not required,

Colorado state law allows an interested party to submit a notarized written request for a recount at the expense of the interested party making the request. Under Colorado law, the term "interested party" is limited to the candidate who lost the election, the political party or political organization of such candidate, any petition representative for a ballot issue or ballot question that did not pass at the election, or the governing body that referred a ballot question or ballot issue to the electorate if such ballot question or ballot issue did not pass at the election.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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

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Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2551 (Wilk) – As Amended: March 28, 2014

SUBJECT: Local ballot measures: bond issues.

SUMMARY: Makes modifications to the bond issue statement mailed to voters with the sample ballot for a local bond election. Specifically, this bill requires each bond issue proposed by a county, city and county, district, or other political subdivision, or any agency, department, or board thereof, to include the best estimate from official sources of the total debt service, including the principal and interest that would be required to be repaid if all the bonds are issued and sold, and permits the estimate to include information about the assumptions used to determine the estimate.

EXISTING LAW:

1) Requires all bond issues proposed a county, city and county, district, or other political subdivision, or any agency, department, or board thereof, to be submitted to the voters for approval.

2) Requires a statement for each bond issue described above to be mailed to the voters with the sample ballot for the bond election. Requires the statement to be filed with the elections official conducting the election not later than the 88th day prior to the election. Requires the statement to include the following:

   a) The best estimate from official sources of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the first sale of the bonds based on assessed valuations available at the time on the election or a projection based on experience within the same jurisdiction of other demonstrable factors;

   b) The best estimate from official sources of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the last sale of the bonds if the bonds are proposed to be sold in series, and an estimate of the year in which that rate will apply, based on assessed valuations available at the time of the election of a projection based on experience within the same jurisdiction or other demonstrable factors; and,

   c) The best estimate from official sources of the highest tax rate that would be required to be levied to fund that bond issue, and an estimate of the year in which that rate will apply, based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors.

3) Permits the statement to contain any declaration of policy of the legislative or governing body of the applicable jurisdiction, proposing to utilize revenues other than ad valorem taxes for purposes of funding the bond issue, and the best estimate from official sources of these revenues and the reduction in the tax rate levied to fund the bond issue resulting from the

substitution of revenue.

4) Defines "tax rate" to mean a tax rate per one hundred dollars ($100) of assessed valuation on all property to be taxed to fund any bond issue described above.

5) Requires the Legislative Analyst to prepare an impartial analysis of each proposed measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Provides that if a proposed measure is estimated to result in increased costs to the state, the estimate of those costs shall be set out in boldface print in the ballot pamphlet.

FISCAL EFFECT: Keyed non-fiscal by Legislative Counsel.

COMMENTS:

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

> Since 1997, the non-partisan Legislative Analyst's Office (LAO) has been required to include the "fiscal effect" of any costs related to the approval of a statewide General Obligation Bond in the ballot pamphlet presented to voters. Per existing law (Elections Code 9087) the LAO is required to follow a list of criteria which includes: the amount of the cost to state or local government, and utilizing a uniform method in each analysis to describe the estimated increase or decrease in revenue or cost of a measure.
>
> AB 2551 updates the tax rate statement (over 100 years old) to ensure that voters understand how the estimate of the tax rate was reached and what the costs will be throughout the 30-40 year length of the bond.
>
> The purpose is to establish minimum standard of transparency for the fiscal analysis of local bond measures that is very similar to what the LAO already does for state General Obligation bond measures.

2) Background: In 1968, the Legislature passed and the Governor signed SB 838 (Petris), Chapter 813, Statutes of 1968, which required the elections official to mail to voters with the sample ballot a tax rate statement for local bond measures. Aside from a few technical changes that have been made, the information included in this statement has mostly been unchanged since it was signed into law in 1968. This bill adds a new requirement to the information already required to be included in the tax rate statement. Specifically, this bill requires each bond issue proposed by a county, city and county, district, or other political subdivision, or any agency, department of board thereof, to also include the best estimate from official sources, including the principal and interest that would be required to be repaid if all the bonds are issued and sold. According to the author, the tax rate statement needs to be updated to ensure voters understand how the estimate of the tax rate was reached and what the costs will be throughout the 30-40 year period of the bond. In addition the author argues that the Legislative Analyst's Office already includes the "fiscal effect" of any costs related to the approval of a statewide General Obligation Bond in the statewide ballot pamphlet sent to voters. According to the author, this bill adds similar language into the "tax rate" statement

required to be sent with the sample ballot for all local bond measures.

3) State vs Local Process: Current law requires all bond issues proposed by a county, city and county, district, or other political subdivision, or any agency, department, or board thereof, to be submitted to the voters for approval. A statement for each bond issue is mailed to the voters with the sample ballot for the bond election and includes the following: 1) the best estimate of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the first sale of the bonds, as specified, 2) the best estimate of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the last sale of the bonds if the bonds are proposed to be sold in series, and an estimate of the year in which that rate will apply, and 3) the best estimate of the highest tax rate that would be required to be levied to fund that bond issue, and an estimate of the year in which that rate will apply.

   However, the process for statewide measures is different. Current law requires the Legislative Analyst to prepare an impartial fiscal analysis of each statewide measure, including a bond measure, which includes the amount of any increase or decrease in revenue or cost to state or local government provided for statewide and, if it is estimated that a measure would result in increased cost to the state, an analysis of the measure's estimated impact on the state, including an estimate of the percentage of the General Fund that would be expended due to the measure, as specified. Existing law requires this information to be included in the statewide ballot pamphlet sent to voters. In addition, at each statewide election at which a state bond measure will be submitted to voters for their approval or rejection, the ballot pamphlet for that election is required to include a discussion, prepared by the Legislative Analyst, of the state's current bonded indebtedness situation. This discussion must include information as to the dollar amount of the state's current authorized and outstanding bonded indebtedness, the approximate percentage of the state's General Fund revenues which are required to service this indebtedness, and the expected impact of the issuance of the bonds to be approved at the election on the items specified.

   Furthermore, the Legislature has taken steps recently to improve voter clarity on statewide bond measures and their future fiscal implications. In 2009, the Little Hoover Commission (LHC) released a report entitled, "Bond Spending: Expanding and Enhancing Oversight." In the report, the LHC made several recommendations to the Legislature aimed at increasing the oversight and accountability of bond measures that have already passed, as well as increasing the clarity and transparency for bond measures that will be proposed to voters in the future. One of the recommendations included in the report was for the state to establish fundamental criteria for ballot measures and to have the criteria evaluated and included as a simple and easy-to-understand report card in the voter guide for all bond measures placed on the ballot. In response to those concerns, the Legislature passed and the Governor signed AB 732 (Buchanan), Chapter 453, Statutes of 2011, which requires the summary prepared by the Attorney General for state bond measures that are submitted to the voters for their approval or rejection to include an explanatory table summarizing the Legislative Analyst's estimate of the net state and local government fiscal impact.

   This bill makes modifications to the bond issue statement mailed to voters with the sample ballot for a local bond election and requires local bond issues, as specified, to include the best estimate from official sources of the total debt service, including the principal and interest

that would be required to be repaid if all the bonds are issued and sold. According to the author, current law is inadequate for local bond measures as it does not include information similar to statewide bond measures that details the "fiscal effect" of the measure. This bill will update the tax rate statement to ensure that voters understand how the estimate of the tax rate was reached and what the costs will be throughout the 30-40 year period of the bond.

4) Arguments in Support: Howard Jarvis Taxpayers Association writes in support:

> When voters review local bond measures, all they have to analyze is the tax rate statement, which usually consists of a sentence or two. There is no requirement in current law that the tax rate statement includes some language pertaining to the fiscal effect of the measure. AB 2551 updates the requirements of this statement, over 100 years old, to educate voters on how the estimate of the tax rate was reached and what the costs will be throughout the 30-40 year length of the bond. This simple transparency provision will ensure that taxpayers better understand the implications of long-term debt at the local level.

REGISTERED SUPPORT / OPPOSITION:

Support

California League of Bond Oversight Committees (co-sponsor)
Howard Jarvis Taxpayers Association (co-sponsor)

Opposition

None on file.

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

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2562 (Fong) – As Amended: April 24, 2014

SUBJECT: Elections.

SUMMARY: Makes various minor and technical changes to provisions of law governing elections. Specifically, this bill:

1) Clarifies that the number of signatures needed on a petition to require a special election to fill a vacancy in a trustee area on a school or community college district board is based on the number of registered voters in the trustee area, rather than on the number of registered voters in the entire school or community college district.

2) Specifies that an incomplete or inaccurate apartment or unit number in the residence address of a signer of an election petition or paper shall not invalidate that person's signature.

3) Makes various conforming changes to provisions of law governing the voter registration process to reflect the existence of online voter registration.

4) Deletes a requirement for county elections officials to submit an annual report to the Secretary of State (SOS) detailing information about district elections held in the county.

5) Corrects various erroneous cross-references in the Elections Code.

6) Makes other technical and conforming changes.

EXISTING LAW:

1) Permits a school district or community college district board to fill a vacancy on the board by calling a special election or by making a provisional appointment. Provides that if the board makes a provisional appointment, registered voters may petition for a special election to be held to fill the vacancy, and provides that the number of signatures needed on the petition in order to require a special election to be held is based on the number of registered voters in the district.

2) Requires a voter who is signing an initiative, referendum, recall, nomination, or other election petition or paper, to personally affix his or her signature, printed name, and place of residence on the petition or paper. Provides that if the residence address on the petition or paper does not match the residence address on the voter's affidavit of registration, the signature on the paper or petition shall not be counted as valid.

3) Provides that a person who is qualified to register to vote and who has a valid California driver's license or state identification card may submit an affidavit of voter registration electronically on the SOS's website. Provides that an affidavit submitted on the SOS's website is effective upon receipt of the affidavit by the SOS if the affidavit is received on or

before the last day to register for an election to be held in the precinct of the person submitting the affidavit.

4) Requires county elections officials to file a statement containing all of the following information not later than December 31 of each year for each district election in the county held pursuant to specified provisions of law:

   a) The list of offices to be filled;

   b) The name of each candidate, including occupational designation, if any;

   c) The name of each successful candidate;

   d) The number of voters eligible to vote in the district and, if voting is by division, the number of voters eligible to vote in each division;

   e) The number of votes for each candidate; and,

   f) The list of offices for which appointments have been made in lieu of election pursuant to specified provisions of law, together with the names of the persons so appointed.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

1) Purpose of the Bill: According to the author, "This elections omnibus bill contains various minor and technical changes to provisions of the Elections Code. All of the provisions of this bill are either changes requested by the California Association of Clerks and Election Officials (CACEO) or the Secretary of State, or are technical changes identified and suggested by Elections & Redistricting Committee staff."

2) School & Community College District Vacancies: Under existing law, when a vacancy occurs on the board of a school district or community college district, the board has two options for filling that vacancy. The board can either call a special election to fill the vacancy, or the board can make a provisional appointment to fill the vacancy. If the board chooses to make a provisional appointment, voters in the district have the ability to require a special election to be held to fill the vacancy by submitting a specified number of signatures on a petition. The number of signatures needed is based on the number of registered voters in the district.

   The law concerning the number of signatures needed to force a special election is ambiguous, however, in cases where board members are elected from trustee areas, rather than being elected at-large. In this situation, it is unclear whether the number of signatures needed to force a special election is based on the number of registered voters in the entire school or community college district, or if it is based on the number of registered voters in the trustee area in question. Similarly, it is unclear whether the petition may be signed by any voter in the school or community college district, or whether the petition may be signed only by voters who are registered within the trustee area.

This bill clarifies that the number of signatures needed is based on the number of registered voters in the trustee area, and only registered voters in the trustee area may sign a petition to demand a special election. This provision was requested by CACEO, and is found in Section 1 of the bill (Section 5091 of the Education Code).

3) Apartment Numbers on Petitions: When a voter signs an election petition or paper, including nomination papers and initiative, referendum, and recall petitions, the voter is required to provide his or her address. A voter's signature is not counted as valid if the address on the petition or paper does not match the address on the voter's affidavit of registration. Voters who live in apartments often omit their apartment number, or transpose numbers in the apartment number, when writing their address on a petition. Existing law does not explicitly address whether an incorrect or missing apartment number should disqualify a signature on an election paper or petition, but many elections officials count such signatures as valid if the street address for the voter is correct and the voter's signature on the petition or paper matches the signature on the voter's registration record.

   This bill specifies that an incomplete or inaccurate apartment or unit number in the residence address of a signer on an election petition or paper shall not invalidate that person's signature. These provisions were requested by CACEO, and are found in Sections 2, 3, 4, and 9 of the bill (Sections 100, 105, and 9020 of the Elections Code).

4) Online Voter Registration: In 2012, the SOS launched a system that permits California voters to register to vote on the SOS's website, pursuant to legislation previously approved by the Legislature and Governor (SB 381 (Ron Calderon), Chapter 613, Statutes of 2008 and SB 397 (Yee), Chapter 561, Statutes of 2011). Since the launch of the online voter registration system, it has come to light that sections of the Elections Code that describe processes related to voter registration do not reference the existence of the electronic application. This bill makes various non-substantive changes to provisions of law governing the voter registration process to recognize the existence of online voter registration. These provisions were requested by the SOS, and are found in Sections 5, 6, 7, and 8 of the bill (Sections 2102 and 2107 of the Elections Code).

5) District Elections Report: The Uniform District Election Law (UDEL) was first enacted through the passage of AB 1892 (Porter, et al.), Chapter 2019, Statutes of 1965, in an attempt to consolidate and standardize election procedures for various districts in the state. UDEL initially applied only to water districts, but subsequent legislation made UDEL applicable to various other districts in the state, and made changes to the UDEL procedures to address problems and technical difficulties that arose during the first elections conducted under UDEL. One such piece of legislation—AB 605 (Porter), Chapter 268, Statutes of 1968—added a requirement for county elections officials to file an annual report with the SOS detailing certain information about elections held in the county under UDEL. The legislative history available on AB 605 does not indicate the purpose of requiring those reports, though the reports may have been helpful tools after the first few elections conducted using UDEL in determining which districts were conducting elections under that law, and in evaluating whether changes to the law might be warranted.

   In any case, regardless of the original purpose of this reporting requirement, elections

officials suggest that the reporting requirement has outlived its usefulness, that the reports take a significant amount of staff time and resources to prepare, and that the completed reports that are submitted to the SOS are filed away by the SOS and are not regularly reviewed or otherwise used for any specific purpose. This bill repeals that reporting requirement. This provision was requested by CACEO, and is found in Section 10 of the bill (Section 10552 of the Elections Code).

6) Outdated & Erroneous Cross References: Last year, the Legislature approved and the Governor signed SB 360 (Padilla), Chapter 602, Statutes of 2013, which overhauled and reorganized procedures and criteria for the certification and approval of a voting system. Among other provisions, SB 360 moved the definitions of certain terms from Section 19251 of the Elections Code to Section 19271 of the Elections Code, but that bill failed to update three cross-references in the Elections Code to the section containing those definitions. This bill updates those outdated cross-references. These cross-reference corrections were identified by Assembly Elections & Redistricting Committee staff, and are found in Sections 12, 13, and 14 of the bill (Sections 14300, 17301, and 17302 of the Elections Code).

   In 1994, the Legislature reorganized the Elections Code through the passage of SB 1547 (Elections and Reapportionment Committee), Chapter 920, Statutes of 1994. That bill was intended to be non-substantive, rearranging the Elections Code into a more logical and manageable format. The same year, AB 2219 (Horcher), Chapter 79, Statutes of 1994, eliminated certain recall procedures that applied to recalls against city officers, and instead made city recalls subject to the same provisions of law that applied to recalls against all other public officers. Pursuant to the terms of the reorganization bill, the language from AB 2219 took effect and prevailed over the changes proposed to the same code sections in the reorganization bill. However, a cross-reference to the city recall procedures was not updated in AB 2219, and so that cross-reference remained in the law as a part of the reorganization of the Elections Code. This bill updates that erroneous cross-reference. This cross-reference correction was requested by CACEO, and is found in Section 11 of the bill (Section 11302 of the Elections Code).

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen

Opposition

None on file.

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

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2766 (Elections & Redistricting Committee) – As Introduced: April 2, 2014

SUBJECT: Elections: central committees: oaths.

SUMMARY: Repeals provisions of law that require county central committee members of Democratic, Republican, and American Independent parties, whether elected to the committee or appointed to fill a vacancy, before he or she enters upon the duties of his office, to take and subscribe the oath or affirmation to uphold the California and United States Constitutions.

EXISTING LAW:

1) Requires public officials to take an oath or affirmation of office to support and defend the California and United States Constitutions.

2) Requires and defines a public officer and employee to include "every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing."

3) Requires county central committee members of the Democratic, Republican, and American Independent Parties, whether elected to the committee or appointed to fill a vacancy, before he or she enters upon the duties of his office, to take and subscribe the oath or affirmation to uphold the California and United States Constitutions.

4) Provides that it is the right of the people to freely exercise religion, freedom of speech and press, and to peaceably assemble and to petition the government for redress of grievances.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

1) Purpose of the Bill: This is one of the Assembly Elections & Redistricting Committee's bills, containing changes to provisions of the Elections Code to conform state law to a recent Superior Court ruling in Barta v. Bowen, in which the court found that the Elections Code requirement for central committee members to take the oath of office was unconstitutional. The provisions of this bill are changes requested by the Secretary of State (SOS).

2) Loyalty Oaths: Article XX, Section 3 of the California Constitution requires public officials to take an oath or affirmation of office to support and defend the California and United States Constitutions. Additionally, existing state statute requires each county central committee member of the Democratic, Republican, and American Independent Party, whether elected to the committee or appointed to fill a vacancy, to take and subscribe to the oath or affirmation set forth in Article XX, Section 3 of the California Constitution, before he or she enters upon the duties of his or her office. Current law does not include a similar loyalty oath requirement for members of the central committee of the Peace and Freedom Party.

Last year, a lawsuit was filed against the SOS challenging the loyalty oath requirement for political party central committee members. In the lawsuit, the petitioner alleged that requiring central committee members to take the oath of office found in the Article XX, Section 3 of the California Constitution is a violation of the United States and California Constitutions. The petitioner requested the court to declare Elections Code Sections 7210, 7408, and 7655 invalid because county central committee members are not public officeholders or employees and consequently, they should not be required to take the oath. Additionally, the petitioner alleged that the oath requirement violates the associational rights of the political parties by regulating the internal affairs of these political parties without a compelling state interest.

The Superior Court ruled in favor of the petitioner's request for a declaratory judgment that Elections Code Sections 7210, 7408, and 7655 are unconstitutional.

In light of the Superior Court's decision and because the SOS concedes that Elections Code Sections 7210, 7408, and 7655 could be considered unconstitutional, this bill repeals the loyalty oath requirements in the Elections Code for the county central committee members of the Democratic, Republican, and American Independent Parties. Political parties would be free to impose their own requirements for members of their central committees, but the state would no longer require central committee members to take the oath contained in Article XX, Section 3 of the California Constitution before taking office.

3) Arguments in Support: Secretary of State Debra Bowen writes in support:

A Superior Court decision in *Barta v. Bowen* (2013) ruled the loyalty oath required of the county central committee members is unconstitutional based on the U.S. Constitution First Amendment right to association. The Court has said party offices are not public offices and the state can only require an oath for people serving public offices.

The freedom to association is an essential cornerstone of a democracy. It is not in the interest of California to legislate the inner workings of political parties, and AB 2766 allows the decision of whether to require an oath from county central committee members to be made by the political party itself. Parties that wish to require loyalty oaths of their central committee members may do so under their own party rules. AB 2766 will avoid unnecessary state costs that would be incurred defending an unconstitutional requirement currently placed upon political parties.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen

Opposition

None on file.

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