

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ELECTIONS

Isaac G. Bryan, Chair

SB 386 (Newman) – As Amended June 5, 2023

SENATE VOTE: 32-8

SUBJECT: Elections.

SUMMARY: Extends the period of time an elections official has to complete signature verification and determine the number of qualified signatures on state and local petitions by 30 working days in situations where the official must do a “full check” of every signature on the petition. Requires a city elections official to publish a public notice with specified city election information no later than three days before the deadline for nomination papers. Repeals obsolete ballot instructions printed on a presidential election ballot. Specifically, **this bill:**

- 1) Extends the signature verification period for an elections official to complete a full check of the number of qualified voters that have signed a state initiative, referendum, or recall petition from 30 working days to 60 working days.
- 2) Extends the deadline for an elections official to complete a full check of signatures on a county, city, or special district initiative or referendum petition, if the elections official originally used a random sampling method to determine the number of valid signatures, from 60 working days to 90 working days after the petition was filed with the elections official. Extends the deadline for an elections official to complete a verification of signatures on a local recall petition from 30 working days to 60 working days after the petition was filed.
- 3) Requires a city elections official, no later than three days before the deadline for submission of nomination papers for a municipal election, to publish a public notice that includes all of the following:
 - a) A list of the offices to be filled.
 - b) Whether the city elections official has furnished nomination papers to the incumbent for each open office.
 - c) Whether, due to redistricting, there is no eligible incumbent for an open office.
 - d) The location where nomination papers may be obtained.
 - e) The location, dates, and hours of operation of the office where completed nomination papers may be filed.
- 4) Repeals obsolete ballot instructions printed on presidential election ballots that instruct a voter how to vote for President, and how to vote for electors of President and Vice President, as specified.

EXISTING LAW:

- 1) Establishes procedures for the filing of a state initiative or referendum petition with county elections official and the Secretary of State (SOS) to determine the validity and numerical sufficiency of the signatures submitted with the petition. (Elections Code §9030(a))
- 2) Requires the SOS, if the SOS determines that the total number of signatures filed with all county election officials is 100 percent or more of the total number of signatures needed to qualify the state ballot measure, to immediately notify the county elections official. (Elections Code §9030(c))
- 3) Requires an elections official, within 30 working days after the notification, to determine the number of qualified voters who have signed the state ballot measure petition. Requires an elections official, if more than 500 names have been signed on sections of the petition, to use a random sampling technique for verification of signatures. Requires the random sampling to include an examination of at least 500 or 3 percent of the signatures, whichever is greater. (Elections Code §9030(d))
- 4) Requires the SOS, if the random statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the state petition sufficient, to order the examination and verification of all signatures filed, and notify the elections official. This process is referred to as a “full check.” Requires an elections official, within 30 working days after receipt of the order, to determine what number of qualified voters have signed the state petition. (Elections Code §9031)
- 5) Requires an elections official, in the case of a county, city, or special district initiative or referendum petition that contains 500 signatures or fewer, to examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters, and notify the proponents of the petition as to the sufficiency or insufficiency of the petition within 30 working days from the date the petition was filed. Permits an elections official, in the case of such a petition that contains more than 500 signatures, to use a random sampling technique to verify the signatures within 30 working days from the date the petition was filed. Requires the random sampling to include an examination of at least 500 or 3 percent of the signatures, whichever is greater. Requires the elections official, if the statistical random sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the local petition sufficient, to, within 60 working days from the date of the filing of the petition, examine and verify all the signatures filed. (Elections Code §§9114, 9115, 9146, 9211, 9237.5, 9309, 11225)
- 6) Requires signatures on statewide recall petitions to be verified in the same manner set forth in existing law for a “full check” of signatures on a state initiative petition. (Elections Code §§11104(b), 11106)
- 7) Requires signatures on local recall petitions to be verified in a similar manner set forth in existing law for a local initiative or referendum petition, except that the elections official has a *total* of 30 working days to complete both the random sampling verification of signatures

on the petition and the full check of signatures on the petition, if necessary. (Elections Code §11225)

- 8) Requires an individual, in order to be included on the ballot as a candidate for municipal office, to obtain nomination papers from a city elections official and submit the nomination papers with a requisite number of signatures no later than the 88th day before the election. (Elections Code §§10220, 10224)
- 9) Requires specified ballot instructions printed on presidential election ballots that instruct a voter how to vote for President, and how to vote for electors of President and Vice President. (Elections Code §13502)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author, “SB 386 seeks to make three minor changes to California’s Elections Code in the service of further ensuring transparency in the electoral process while more effectively stewarding the taxpayer dollars need for the conduct of elections.”
- 2) **Petition Signature Verification Timelines:** Ballot measures, such as initiatives, referendums, and recalls, are vital forms of direct democracy that allow voters to have a voice in the laws that will govern them. In general, there are various steps to proposing a state or local ballot measure, such as drafting the proposed ballot measure, requesting a circulating title and summary, circulating ballot measure petitions and collecting signatures, and submitting the signatures for verification by the elections official. Under existing law, an elections official has a certain number of days to verify petition signatures and determine whether the state or local petition has been signed by the number of signatures necessary to qualify the ballot measure. According to author’s office, county elections officials are required to continue to verify state and local petition signatures while simultaneously processing vote by mail (VBM) ballots during the early voting period and canvass period of an election. In practice, this can lead to extreme staffing challenges as the election staff managing the signature verification process for petitions are usually the same experts tasked with verifying signatures on VBM ballots. In an effort to make this process more efficient, this bill increases the time period an elections officials has to conduct signature verification for state and local petitions in situations where the elections official is required to conduct a full check of signatures filed on the petition, as specified.

As mentioned above, proposing a ballot measure is a multistep process. The SOS publishes suggested deadlines for state initiative proponents to begin the process of proposing a measure in order to qualify the measure for a particular election, and encourages proponents to begin the process as early as possible to ensure all deadlines are met. Extending the signature verification time period could result in ballot measures being ineligible for the intended election if proponents wait until the last day for submittal. Thus ballot measure proponents that are seeking to qualify a measure to appear on a particular ballot may need to adjust their timelines and start the petition process even earlier than usual in order to qualify

the measure for the intended election.

- 3) **Municipal Elections:** All candidates, as a precondition for having their name printed on the ballot at an election, must complete and file with the elections official specified nomination documents. Generally, the forms for nomination documents are available on the 113th day prior to the election, and must be completed and filed with the elections official not later than the 88th day prior to the election. Additionally, existing law provides, generally, that if an incumbent who is eligible to run for reelection does not file nomination documents by the 88th day before the election, as specified, that any person other than the incumbent has until the 83rd day before the election to file nomination documents for that office. According to the author, when a census is conducted, and electoral maps are updated to reflect changes in population distribution, and it is possible that a sitting officeholder may lose their right to seek re-election in the event that their residence is excluded from the newly drawn jurisdiction boundaries. Under these circumstances, an extension may not be granted if there is no incumbent eligible to be elected as the incumbent has been “redistricted out.” This bill seeks to reduce confusion by requiring specified notifications about electoral guidelines to be posted on municipal websites at least three days prior to the filing deadline.
- 4) **Updating Ballot Instructions:** Existing law requires ballots to comply with certain layout and printing requirements, including specifying font type, font size, margin widths, spacing of contests, voting square size, and write-in spacing, among other formats and conditions. In an effort to update the law, AB 623 (Berman), Chapter 863, Statutes of 2019, provided elections administrators with greater flexibility when designing ballot layouts that are user friendly and compatible with new voting systems. Specifically, AB 623 removed outdated Elections Code sections related to ballot layouts, font sizes, and font types.

Notwithstanding the changes made by AB 623, some ballot instructions found in the Elections Code do not accurately describe the process for marking a ballot. For instance, current law requires specified ballot instructions to be printed on presidential election ballots that instruct a voter how to vote for President, and how to vote for electors of President and Vice President. The method in which Californians choose Presidential electors has changed and the instructions required to be on the ballot are no longer applicable. Accordingly, this bill deletes these obsolete ballot instructions.

- 5) **Arguments in Support:** In support of a prior version of this bill, the League of Women Voters of California (League) writes:

The League supports improvements to the initiative and referendum process, and systems of government which achieve cost savings, and that improve the quality of service. Further, we believe that government bodies protect the citizen’s right to know by giving adequate notice of proposed action, and that democratic government depends on informed and active participation in government.

The changes proposed in SB 386 help ensure that: county elections offices have the time to verify signatures without using excessive overtime hours; potential candidates are clearly informed of filing deadlines for office; and that voters are not confused by antiquated instructions on their ballots.

- 6) **Amendments Sought:** With an oppose unless amended position, the Howard Jarvis Taxpayers Association writes, “SB 386 should be amended to provide that initiative measures filed before the law goes into effect are subject to the signature verification period under current law. It would be undemocratic to change the rules in the middle of the process.”
- 7) **Related Legislation:** AB 1219 (Berman), which is pending in the Senate Appropriations Committee, revises ballot design requirements, as recommended by the SOS’s Ballot Design Advisory Committee (BDAC). AB 1219 was approved by this committee on an 8-0 vote, and on the Assembly Floor by a 75-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials (Sponsor)
City Clerks Association of California (prior version)
County of Los Angeles Board of Supervisors (prior version)
League of Women Voters of California (prior version)

Opposition

Howard Jarvis Taxpayers Association (unless amended)

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