

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 1492 (Low) – As Amended April 15, 2015

SUBJECT: Elections: in-lieu-filing-fee and political party qualification petitions: penal provisions.

SUMMARY: Provides that a person who is found guilty of fraud related to the circulating or filing of an in-lieu-filing-fee petition or political party qualification petition is subject to the same penalties as a person found guilty of other forms of petition fraud. Specifically, **this bill:**

- 1) Defines “political party qualification petition,” for the purposes of this bill, as a petition circulated to qualify a political party, as specified.
- 2) Provides that laws prohibiting specified misconduct in connection with the circulation and filing of nomination papers and declarations of candidacy also apply to the circulation and filing of in-lieu-filing-fee petitions, subject to the same penalties that are applicable to violations related to nomination papers and declarations of candidacy.
- 3) Provides that laws prohibiting specified misconduct in connection with the circulation and filing of initiative, referendum, and recall petitions also apply to the circulation and filing of political party qualification petitions, subject to the same penalties that are applicable to violations related to initiative, referendum, and recall petitions.
- 4) Makes technical and corresponding changes.

EXISTING LAW:

- 1) Makes it a crime, subject to various penalties, to engage in specified misconduct in connection with nomination documents, including all of the following:
 - a) Defacing or destroying nomination papers, as specified;
 - b) Knowingly filing false nomination documents, as specified;
 - c) Willfully suppressing nomination documents, as specified; and,
 - d) Failing to file nomination documents on behalf of a candidate at the proper time and place, as specified.
- 2) Makes it a crime, subject to various penalties, to engage in specified misconduct in connection with initiative, referendum, and/or recall petitions, including all of the following:
 - a) Knowingly circulating a petition containing false, forged, or fictitious names, as specified;

- b) Knowingly filing false or fraudulent signatures on a petition with the elections official, as specified;
- c) Subscribing false or fictitious signatures to a petition, or causing others to do so, as specified;
- d) Intentionally misrepresenting the contents or effect of a petition while circulating that petition, as specified;
- e) Willfully and knowingly circulating false statements concerning a petition for the purpose of obtaining a signature on that petition, as specified;
- f) Intentionally making any false statement in response to an inquiry by a voter, while circulating an initiative petition, about whether the person is a paid signature gatherer or a volunteer, as specified;
- g) Refusing to allow a prospective signer to read a petition or measure while working for the proponents of the measure, as specified;
- h) Offering or giving money or other valuable consideration in exchange for a signature on a petition, as specified;
- i) Soliciting or causing false or forged signatures to be affixed on a petition, as specified;
- j) Knowingly signing a petition more than once, or signing a petition while knowing that the person is not qualified to sign that petition, as specified;
- k) Paying or offering things of value to the proponents of a petition to prevent that measure from qualifying or appearing on the ballot, as specified;
- l) While the proponent of a measure, receiving money or things of value in exchange for preventing that measure from qualifying or appearing on the ballot, as specified;
- m) Buying a petition containing one or more signatures from a circulator, as specified;
- n) Threatening to commit assault or battery on a person circulating a petition, or a relative of such a person, as specified;
- o) Forcibly taking a petition containing one or more signatures from a circulator, as specified;
- p) While working for the proponents of a measure by soliciting signatures on a petition, failing to surrender the measure or petition to the proponents, as specified;
- q) Knowingly or willfully permitting the list of signatures on a petition to be used for a purpose other than qualification of the measure for the ballot, as specified;
- r) Making any false affidavit concerning a petition or the signatures appended thereto, as specified; and,

- s) As a public official or employee, knowingly making any false return, certification, or affidavit concerning a petition or the signatures appended thereto.
- 3) Allows a court, upon conviction of a violation of specified provisions of law that prohibit certain conduct with respect to initiative, referendum, and recall petitions, to order as a condition of probation that the convicted person be prohibited from receiving money or other valuable consideration for gathering signatures on an initiative, referendum, or recall petition.
- 4) Provides that a candidate who is running for an office for which there is a filing fee may submit a petition containing signatures of registered voters in lieu of paying the filing fee.
- 5) Provides, among other methods of qualification, that a political party is qualified to participate in a primary election or presidential general election if a petition for that party's qualification is filed with the Secretary of State and is signed by a number of voters equaling at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, as specified.

FISCAL EFFECT: Unknown. State-mandated local program; contains a crimes and infractions disclaimer.

COMMENTS:

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

This bill creates the same penalties that apply to people who are found guilty of committing fraud involving “in-lieu-filing fee petitions” and “political party qualification petitions”, as the people who are found guilty of committing fraud on other forms of petitions.

Currently, the Secretary of State does the investigations into people who commit fraud involving nomination papers, declarations of candidacy, initiatives, referenda, and recall petitions and the only two petitions that are not specifically included in the statute are in-lieu filing fee petitions and political party petitions. By including the two additional petitions this would provide clarity by allowing the state to punish people whom commit fraud involving in-lieu filing fee petitions and political party petitions.

- 2) **Petitions and Nomination Papers:** As detailed above, existing law contains a number of prohibitions against misconduct in connection with the circulation and filing of nomination papers, declarations of candidacy, and initiative, referendum, and recall petitions. Those laws, however, do not explicitly apply to other related petitions—specifically political party qualification petitions and in-lieu-filing-fee petitions. This bill would broaden those laws prohibiting misconduct in connection with the circulation and filing of election documents such that the laws that currently prohibit misconduct in connection with nomination documents also apply to in-lieu-filing-fee petitions, and so that laws that prohibit misconduct in connection with initiative, referendum, and recall petitions also apply to political party qualification petitions.

- 3) **Technical Amendment:** Due to a drafting error, this bill needs a technical amendment to restore language that was inadvertently deleted by the current version of the bill. To correct that drafting error, committee staff recommends the following technical amendment:

On page 9, line 16, after the second “or” insert:

withdrawing an initiative petition after filing it with the appropriate elections official, or

- 4) **Previous Legislation:** This bill is substantially similar to SB 1043 (Torres) of 2014. SB 1043 was approved by the Senate on a 36-0 vote, and was approved by this committee on a 6-0 vote, but was never brought up for a vote on the Assembly Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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