

Date of Hearing: April 25, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 2051 (Choi) – As Amended April 18, 2018

SUBJECT: Candidate's statement.

SUMMARY: Permits a candidate for local nonpartisan elective office, or a candidate for statewide office or for state Assembly or Senate who accepts the voluntary expenditure limits, to change his or her candidate statement, as specified. Specifically, **this bill:**

- 1) Allows the candidate statement for a candidate for local nonpartisan office to be changed during the period for filing the nomination papers. Permits a candidate who withdraws his or her statement to file a revised statement during the period for filing nomination papers.
- 2) Permits the candidate statement for a candidate for statewide elective office or a candidate for state Senate or Assembly who accepts the voluntary expenditure limits set forth in existing law to be changed during the period for filing the nomination papers. Permits a candidate who withdraws his or her statement to file a revised statement during the period for filing nomination papers.

EXISTING LAW:

- 1) Permits candidates for local nonpartisan offices to prepare and file a candidate statement on a form provided by the elections official. Permits the statement to include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate.
- 2) Permits a candidate for statewide elective office or a candidate for state Senate or Assembly who accepts the voluntary expenditure limits set forth in the Political Reform Act (PRA) to purchase space to place a statement in the voter information guide that does not exceed 250 words. Prohibits the candidate statement from making any reference to any opponent of the candidate.
- 3) Prohibits a candidate statement for a nonpartisan elective office from including the party affiliation of the candidate, or membership or activity in partisan political organizations. Prohibits a candidate statement from making reference to other candidates for that office or to another candidate's qualifications, character, or activities.
- 4) Requires the candidate statement for a nonpartisan elective office to be filed in the office of the elections official when the candidate's nomination papers are returned for filing. Requires the statement to be filed no later than the 88th day before the election, as specified.
- 5) Allows a candidate statement for a nonpartisan elective office to be withdrawn, but not changed, during the period for filing nominations papers and until 5 pm of the next working day after the close of the nomination period.
- 6) Requires a candidate statement to remain confidential until the expiration of the filing deadline.

- 7) Requires a copy of the candidate's statements be made available for public examination not less than ten calendar days before county voter guides and other specified election materials are submitted for printing. Permits any voter, during the ten calendar day examination period, to seek a writ of mandate or an injunction, upon specified grounds, requiring the amendment or deletion of any or all of the material in the candidate statement. Requires the peremptory writ of mandate or injunction to be issued upon clear and convincing proof that the material in question is false, misleading, or inconsistent with current law.

FISCAL EFFECT: Unknown

COMMENTS:

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

Current law allows for a statement to be withdrawn, but not changed, during the period for filing Nomination Papers and until 5:00 p.m. of the next working day after the close of the nomination period. Though the conventional response to resume puffing is exposure by the press or political attack by the opposition, a reasonable middle-ground in cases of accidental omission or mistake would be to allow for self-correction on mostly accurate candidate statements when an error was found before the deadline.

AB 2051 would allow the candidate statement for each candidate for elective office in a local agency, statewide office, or state Senate and Assembly to be changed during the period for filing nomination papers...

- 2) **Logistical Issues:** As mentioned above, current law allows a candidate statement to be withdrawn, but not changed, during the period for filing nomination papers and until 5 pm of the next working day after the close of the nominations papers. This bill instead permits a candidate statement for a candidate for local nonpartisan office to be changed during the period for filing the nomination papers and allows a candidate who withdraws his or her statement to file a revised statement during the period for filing nomination papers. This bill, however, does not place a limit on how many times a candidate statement may be revised and re-submitted. Theoretically, a candidate could submit, withdraw, and resubmit multiple candidate statements as long as it is done before the deadline for filing nomination papers. The author and the committee may wish to consider amending the bill to prohibit a candidate statement from being revised more than once.
- 3) **Is There a Statewide Problem?** The author's office provided the committee staff with one example of an error made in 2015. While committee staff has requested more examples none have been received. Committee staff has reviewed a handful of candidate guides from various counties and most guides clearly state in bold and/or underlined to check the candidate statement carefully for errors in spelling, punctuation and grammar before filing because errors will not be corrected and the statement will be printed exactly as submitted, with the exception of formatting requirements.

4) **Concerns:** The California Association of Clerks and Election Officials wrote a letter outlining the following concerns:

- **Timing:** Counties begin to layout and proof their voter information guides as documents are filed. After the close of the nomination period, many counties use that following weekend to finalize their guides to send to the printer on Monday after determining if any statements are being withdrawn. Removing a statement from the guide is easier than making changes. Our concern about timing is two-fold: first, there may be a greater chance for the wrong statement to be printed in the guide, and secondly, there will likely be an increase in the cost to the candidates for printing their statements because of the increase in staff time to change, layout and proof the last minute amended statements.

- **Increase in statement costs:** All of California's 58 counties are required to allow candidates to have their statement printed in English and in Spanish. Many of the counties also have other language requirements specific to their population. Because of the number of statements being translated, counties send their documents once filed to the certified translators for a timely return in order to place into the voter information guide. If counties need to submit a candidate statement more than once, or if the county waits until the close of the nomination period to send statements for translation, there will be an increase in the statement's cost. Candidate statement costs are not borne by the county or the state, by Election Code they are paid either by the candidate themselves or the special district, so this extra expense will be passed to them.

- **Court process already exists:** Any member of the public already has the ability to challenge any election material, such as statements, arguments, rebuttals, measure text and ballot designations in court. Superior Courts recognize the need for an expeditious hearing due to election deadlines and these election related court issues take precedence in the judicial queue.

5) **Political Reform Act of 1974:** California voters passed an initiative, Proposition 9, in 1974 that created the Fair Political Practices Commission and codified significant restrictions and prohibitions on candidates, officeholders, and lobbyists. That initiative is commonly known as the PRA. Amendments to the PRA that are not submitted to the voters, such as those contained in this bill, must further the purposes of the proposition and require a two-thirds vote of each house of the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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