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THIRD READING

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Bill No: AB 446  
Author: Mayes (I)  
Amended: 8/26/21 in Senate  
Vote: 21

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SENATE ELECTIONS & C.A. COMMITTEE: 4-1, 7/12/21  
AYES: Glazer, Hertzberg, Leyva, Newman  
NOES: Nielsen

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/26/21  
AYES: Portantino, Bradford, Jones, Kamlager, Laird, McGuire  
NO VOTE RECORDED: Bates

ASSEMBLY FLOOR: 70-4, 6/2/21 - See last page for vote

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**SUBJECT:** Elections: political party qualifications

**SOURCE:** Author

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**DIGEST:** This bill reduces the number of signatures needed on a petition to form a new political party from 10% to 3% of the vote at the last gubernatorial election. This bill allows the name of a proposed political party that fails to qualify as a party to be eligible for use by a different political body in the future, as specified.

**ANALYSIS:**

Existing law:

- 1) Requires a group of electors that desires to qualify a new political party to form a political body by holding a caucus or convention at which temporary officers are elected and a party name is designated, and by filing formal notice with the Secretary of State (SOS) that the political body has organized and declared an intent to qualify a political party, as specified.

- 2) Prohibits a designated party name from being so similar to the name of an existing party so as to mislead the voters, and prohibits the name from conflicting with the name of any existing party or political body that has previously filed notice of an intent to qualify a political party with the SOS.
- 3) Permits a political body, within the first 70 days after filing a formal notice with the SOS of its intent to qualify a political party, to request that the SOS count towards its qualification as a political party any voter registration affidavits in which voters declared affiliation with the political body prior to the date the political body filed its formal notice with the SOS.
- 4) Provides that a political party is qualified to participate in a primary election under any of the following conditions:
  - a) 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 2% of the entire vote of the state for that office.
  - b) On or before the 135th day before a primary election, it appears to the SOS that voters equal in number to at least 0.33% of the total number of voters registered on the 154th day before the primary election have declared their preference for that party, as specified.
  - c) On or before the 135th day before a primary election, there is filed with the SOS a petition signed by voters, equal in number to at least 10% 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, as specified.
- 5) Provides that a political party is qualified to participate in a presidential general election under any of the following conditions:
  - a) The party was qualified to participate and participated in the presidential primary election preceding the presidential general election pursuant to existing law.
  - b) 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 2% of the entire vote of the state for that office.

- c) On or before the 102nd day before the presidential general election, it appears to the SOS that voters equal in number to at least 0.33% of the total number of voters registered on the 123rd day before the presidential general election have declared their preference for that party, as specified.
  - d) On or before the 135th day before the presidential general election, there is filed with the SOS a petition signed by voters equal in number to 10% 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 presidential general election, as specified.
- 6) Provides that a political body that attempted to qualify to participate in a primary election or a presidential general election, and that failed to qualify by the deadline to qualify as a party for that election, shall be considered to have abandoned its attempt to qualify as a political party and shall be ineligible to participate in that election.
  - 7) Provides that whenever the registration of any party that qualified in the previous primary or general election falls below 1/15 of 1% of the total state registration, that party is not qualified to participate in the primary or presidential general election and is deemed to have been abandoned by the voters.
  - 8) 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, is 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.

This bill:

- 1) Reduces the number of signatures needed on a petition to form a new political party from 10% of the entire vote of the state at the last preceding gubernatorial election to 3% of the entire vote of the state at the last preceding gubernatorial election.
- 2) Specifies that affidavits of registration in which voters declared affiliation with a political body before the date that political body filed formal notice with the SOS of its intent to qualify as a political party may be counted toward the political body's qualification as a party in either of the following circumstances:

- a) For a political body that has previously filed one or more formal notices, the body provides from at least one of the previous temporary officers of the political body a signed affidavit stating that it is the same political body that voters declared affiliation with on their affidavits of registration.
  - b) For a political body for which the current formal notice is its first formal notice, the political body provides from at least one of its current temporary officers a signed affidavit stating that it is the same political body that voters declared affiliation with on their affidavits of registration.
- 3) Provides that a political body that failed to qualify as a political party by the deadline for a party to qualify for a primary election or a presidential general election is ineligible to participate in the following election, as specified. Provides that such a political body is considered to have abandoned its attempt to qualify as a political party if the body does not file a new notice of intent to qualify as a political party within two years of becoming ineligible to participate in the following election, as specified.
  - 4) Prohibits, so as not to mislead voters, a designated party name from being identical to or so similar to the name of an existing party or political body that has previously filed notice of an intent to qualify a political party. Permits a future political body with newly elected temporary officers to use the party name of a political body that has not qualified as a political party and is considered to have abandoned its attempt to qualify as a political party, as specified.
  - 5) Requires the SOS, if the SOS rejects a designated political party name, to notify the temporary officers of the proposed party in writing of the rejection, and to explain the reason why the designated party name was rejected. Permits a temporary officer of the political body, within 30 days of receiving notification of the rejection, to request that the SOS reconsider the rejection, as specified. Requires the SOS, within 30 days of receiving a request for reconsideration, to approve or reject the designated party name and notify the temporary officers in writing of that determination.
  - 6) Makes technical and conforming changes.
  - 7) Addresses a chaptering-out issue with this bill and AB 796 (Berman, 2021).

## **Background**

*Political Party Qualification Methods.* Existing 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. To qualify a new political party by this method, voters equal in number to at least 0.33% of the total number of registered voters (excluding voters whose party preference is recorded as “unknown”) must complete a voter registration affidavit declaring their preference for the political body by a specified deadline. A political body that sought to qualify via the voter registration method for the November 2020 presidential general election must have had 68,672 voters registered as disclosing a preference for that political body.

The second method a political body may use to qualify as a new political party is by petition. Under this method, a political body must collect petition signatures of registered voters equal to 10% of the votes cast at the last gubernatorial election. A political body that sought to qualify via the petition method for the November 2020 presidential general election must have collected 1,271,255 valid petition signatures of registered voters.

This bill proposes to reduce the number of signatures that a political body needs to qualify by the *petition* method to a number of registered voters equal to 3% of the votes cast at the last gubernatorial election. For a political body seeking to qualify as a political party via the petition method for the 2022 statewide primary election, that would mean that the body would need 381,377 valid petition signatures, rather than the 1,271,255 valid signatures that are required under existing law.

Once qualified, existing law permits a party to maintain its qualified status by retaining registrants representing at least 1/15 of 1% of the total state registrations and either having its candidates for an elective statewide office receive at least 2% of the vote for that office at the preceding gubernatorial primary election, or retaining statewide registrations equaling at least 0.33% of the total number of state registered voters (excluding “unknown” party preference voters).

*Political Party Qualification Attempts.* The vast majority of political bodies fail to ever qualify as political parties. According to information from the SOS, since 1968, only seven new political parties have qualified to participate in California elections. Six of those parties (American Independent, Peace & Freedom, Reform, Libertarian, Green, and Natural Law parties) qualified using the voter registration method. The most recent political party to qualify—the Americans Elect Party—qualified in 2011 using the petition method. Three of those parties (Natural Law, Reform, and Americans Elect parties) are no longer qualified political parties.

*Significance of Qualification as a Political Party.* As a result of the top two primary system, qualified political parties have fewer rights and privileges than they did under the prior partisan primary election system. Nonetheless, becoming a qualified political party still confers several benefits under state law, including (1)

the ability to have a state-conducted presidential primary election (which is not conducted using the top two primary); (2) the ability to have state-conducted party central committee elections; (3) the ability for candidates to use the name of that political party as their party preference that appears on the ballot in races for federal and most state elective offices; (4) the ability for the party to have a list of candidates that it endorsed for federal and most state elective offices appear in the voter information guide; (5) the ability for the party to make unlimited contributions to candidates for elective state office; and, (6) the political party's name is listed as an option for voters to select on the voter registration form.

*Reuse of Proposed Party Names.* Existing law prohibits a political body that is seeking to form a new political party from choosing a party name that conflicts with the name of an existing party, or with the name of a political body that previously filed notice of an intent to qualify a political party, even decades earlier. According to the author, the policy of prohibiting the reuse of proposed party names—even for long-abandoned efforts—creates barriers to forming new political parties, both because it is difficult to determine which party names are and are not available, and also because it limits the choice of names that can be used. This bill permits a new political body to reuse a proposed political party name after the previous political body is considered to have abandoned its attempt to qualify as a political party by not filing, within two years of failing to qualify for an election, a new notice to qualify for an election.

*The “Look Back” Period for Counting Prior Registrants.* When a political body files a notice with the SOS seeking to form a new political party, existing law allows that body to request that the SOS count towards its qualification as a political party any voter registration affidavits in which voters declared affiliation with the political body prior to the date the political body filed its formal notice. There is no time limit on how far back this “look back” period may extend.

Because this bill permits the reuse of proposed political party names, maintaining an indefinite look back period could allow a voter who registered to vote in support of one body's qualification efforts to later be counted towards the qualification of an unrelated political body with the same name. To limit the potential for abuse, this bill provides that previously-filed voter registration affidavits can be counted towards qualifying a political party only if the political body that is attempting to qualify provides a signed affidavit from at least one previous temporary officer stating that it is the same political body that voters declared affiliation with.

## Comments

- 1) *Author's statement.* According to the author, the act of voting is our most powerful form of free speech. Our founders envisioned a system of representative democracy where individuals could speak collectively to elect those who best represented their political and philosophical preferences. While a flurry of political parties marked our nation's infancy, since the 1850s elections have been dominated by just two parties. This does not reflect Californians current political makeup. California law gives immense advantages to existing organized political parties, while creating multiple barriers that impede new movements. This bill takes steps to expand political participation and enfranchise the voices of new political movements that represent a more diverse voter base.
- 2) *Argument in Opposition.* In a letter opposing AB 446, the Peace and Freedom Party of California argues that while more parties are healthy, it is also more difficult for minor parties to remain qualified as the number of parties increases. Their letter states: "This may have the effect of parties being qualified and parties being removed routinely. Our concerns would be not only the confusion among voters to a constant churn of parties coming onto the ballot and then going back off the ballot, but also the extra work put upon county election officials trying to maintain an ever-changing number of parties."

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- SOS indicates that this bill would result in potential increased costs, likely in the low hundreds of thousands of dollars annually, resulting from the delineated and time-limited appeals process. SOS indicates that costs associated with additional petitions to become a political party, due to this bill's lower threshold for qualification, are likely absorbable (General Fund).
- By making specified changes to the elections process, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. Cost drivers include (1) the larger ballot necessary to accommodate more candidates representing additional political parties, and (2) the need to print variations of the ballot for party members in primaries and for additional central committee meetings. Costs would be higher if the new political parties allow cross over votes similar to what the

Democratic Party allows for No Party Preference voters. For every political party that qualifies, there would be an additional one to two added variations of each ballot type, with an increase in corresponding workload. The magnitude of these costs is unknown, but potentially significant (General Fund).

**SUPPORT:** (Verified 8/26/21)

None received

**OPPOSITION:** (Verified 8/26/21)

Peace and Freedom Party of California

**ASSEMBLY FLOOR:** 70-4, 6/2/21

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Cooley, Cooper, Cunningham, Daly, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Stone, Ting, Valladares, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

**NOES:** Megan Dahle, Davies, Voepel, Waldron

**NO VOTE RECORDED:** Bigelow, Choi, Nguyen, Patterson, Smith

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8/31/21 9:27:46

\*\*\*\* **END** \*\*\*\*