

CONCURRENCE IN SENATE AMENDMENTS

AB 446 (Mayes)

As Amended August 26, 2021

Majority vote

SUMMARY

Reduces the number of signatures needed on a petition to form a new political party by 70%. Permits a body that is attempting to form a new political party to request reconsideration if the Secretary of State (SOS) rejects the proposed party's name. 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 beginning two years after the party's failure to qualify.

Senate Amendments

Add double-jointing language to avoid chaptering problems with AB 796 (Berman) of the current legislative session.

COMMENTS

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. In order to qualify a new political party by the voter registration 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 intending to qualify as a political party 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. While six political bodies filed paperwork in an attempt to qualify as political parties for the purposes of the November 2020 presidential general election, none of them qualified, and only one political body had more than 250 registrants (the Common Sense Party, with 10,725 registrants). While it is impossible to know until the 154th day before the 2022 statewide primary election the exact number of voters who must be registered as disclosing a preference for a political body in order for that political body to qualify as a political party for that primary election, it appears that a political body that is seeking to qualify as a political party using the voter registration method likely would need between 70,000 and 75,000 voters to register as preferring that political body in order to qualify as a political party.

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 or the presidential general election, to determine if a political body intending to qualify collected 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.

According to information from the SOS, since 1968, seven new political parties have qualified to participate in California elections. Six of those parties (the American Independent Party and the Peace & Freedom Party in 1968; the Libertarian Party in 1980; the Green Party in 1992; and the Natural Law Party and the Reform Party in 1995) qualified using the voter registration method. (The Peace & Freedom Party lost its status as a political party in 1998, but regained its status in 2003 using the voter registration method.) The most recent political party to qualify under California law – the Americans Elect Party – qualified in 2011 using the petition method.

In February 2009, the Legislature approved SCA 4 (Maldonado), Resolution 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.

As a result of the top two primary system, qualified political parties have fewer rights and privileges than they did under the prior 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; 2) the ability to have state-conducted 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.

Please see the policy committee analysis for a full discussion of this bill.

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. Calls for new options reverberate through the base of both parties, and a growing number of Californians do not identify with either political class. The lack of options is a manufactured choice. California law gives immense advantages to existing organized political parties, while creating multiple barriers that impede new movements. For example, the current petition process to qualify a new party requires roughly 85 times more signatures than it takes to remain as an active party. California holds itself out as a bastion of new and transformative ideas and must take steps to expand political participation and enfranchise the voices of new political movements that represent a more diverse voter base."

Arguments in Support

None received.

Arguments in Opposition

The Peace and Freedom Party of California, which has an "oppose unless amended" position on a prior version of this bill, expresses its disappointment that this bill was amended to remove provisions that previously appeared in the bill that would have lowered the number of votes that

a party's candidates for an elective statewide office need to receive at a gubernatorial primary election in order for the party to remain qualified. The Peace and Freedom Party of California's letter further states, "AB 446 also reduces the number of signatures that would be required to qualify a party for an election to 3% of the entire statewide vote at the last preceding gubernatorial election. This section which reduces the qualification for party ballot status, in our opinion, is fine if coupled with the removed section, or even another percent involving a lesser reduction of the current 2%, in order to make it easier for smaller parties to remain on the ballot once qualified. While more parties are healthy, and in fact desirable, it is also more difficult at the 2% level to maintain ballot status as the number of parties increases. 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 COMMENTS

According to the Senate Appropriations Committee:

- 1) SOS indicates that the 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 the bill's lower threshold for qualification, are likely absorbable (General Fund).
- 2) 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 a) the larger ballot necessary to accommodate more candidates representing additional political parties, and b) 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).

VOTES:

ASM ELECTIONS: 6-0-1

YES: Berman, Seyarto, Low, Mayes, Mullin, Blanca Rubio

ABS, ABST OR NV: Bennett

ASM APPROPRIATIONS: 13-3-0

YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas

NO: Bigelow, Megan Dahle, Davies

ASSEMBLY FLOOR: 70-4-5

YES: 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

NO: Megan Dahle, Davies, Voepel, Waldron

ABS, ABST OR NV: Bigelow, Choi, Nguyen, Patterson, Smith

SENATE FLOOR: 32-1-7

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

NO: Nielsen

ABS, ABST OR NV: Bates, Borgeas, Dahle, Grove, Melendez, Ochoa Bogh, Stern

UPDATED

VERSION: August 26, 2021

CONSULTANT: Ethan Jones / ELECTIONS / (916) 319-2094

FN: 0001331