
UNFINISHED BUSINESS

Bill No: SB 35
Author: Umberg (D) and McGuire (D)
Amended: 8/26/21
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 3/15/21
AYES: Glazer, Hertzberg, Leyva, Newman
NO VOTE RECORDED: Nielsen

SENATE PUBLIC SAFETY COMMITTEE: 4-0, 4/13/21
AYES: Bradford, Ochoa Bogh, Skinner, Wiener
NO VOTE RECORDED: Kamlager

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 29-2, 5/10/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Cortese, Dodd, Durazo,
Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva,
McGuire, Min, Newman, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner,
Umberg, Wieckowski, Wiener
NOES: Jones, Wilk
NO VOTE RECORDED: Bates, Borgeas, Caballero, Dahle, Grove, Limón,
Melendez, Nielsen, Stern

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 9/8/21 (Pursuant to Senate
Rule 29.10)
AYES: Glazer, Hertzberg, Leyva, Newman
NO VOTE RECORDED: Nielsen

ASSEMBLY FLOOR: 61-13, 9/2/21 - See last page for vote

SUBJECT: Elections

SOURCE: Author

DIGEST: This bill makes changes to the distance within which electioneering and specified political activities near a voting site are prohibited, as specified. This bill also extends an existing deadline for a candidate for Governor to submit tax returns to the Secretary of State (SOS) in order to have the candidate's name printed on the direct primary election ballot, and makes changes to the process for submitting those documents, as specified.

Assembly Amendments modify the distance from 200 feet to 100 feet from the entrance to a building with a voting site within which electioneering and specified political activities near a voting site are prohibited. The amendments also add provisions changing the deadline and the SOS's duties for receiving and processing tax return information from candidates running for Governor.

ANALYSIS:

Existing law:

- 1) Defines "electioneering" to mean the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot within 100 feet of a polling place, a vote center, an elections official's office, or a satellite location, as specified.
- 2) Defines "polling place" to mean a location where a voter casts a ballot and includes the following terms, as applicable: poll, polling location, and vote center.
- 3) Provides that prohibited electioneering information includes, but is not limited to, any of the following:
 - a) A display of a candidate's name, likeness, or logo.
 - b) A display of a ballot measure's number, title, subject, or logo.
 - c) Buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information.
 - d) Dissemination of audible electioneering information.
 - e) At vote by mail (VBM) ballot drop boxes, loitering near or disseminating visible or audible electioneering information.
- 4) Provides that no person, on Election Day, or at any time that a voter may be casting a ballot, shall, within 100 feet from the room or rooms in which voters are signing the roster and casting ballots of a polling place, a specified satellite

location, or an elections official's office circulate a petition, solicit a vote or speak to a voter on the subject of marking a voter's ballot, place a sign or speak with voters relating to a voters' qualifications except as provided in existing law, or do any electioneering as defined by existing law, as specified.

- 5) Provides that no person shall, with the intent of dissuading another person from voting, within 100 feet from the room or rooms in which voters are signing the roster and casting ballots of a polling place, do any of the following:
 - a) Solicit a vote or speak to a voter on the subject of marking their ballot.
 - b) Place a sign relating to voters' qualifications or speak to a voter on the subject of voters' qualifications, except as provided in current law.
 - c) Photograph, video record, or otherwise record a voter entering or exiting a polling place.
 - d) Provides that any person who violates any of these provisions is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than 12 months, or in state prison. Provides that any person who conspires to violate any of the following provisions is guilty of a felony.
- 6) Provides that every person is punishable by a fine not exceeding \$1,000, or by imprisonment for 16 months or two or three years, or by both that fine and imprisonment, as specified, who:
 - a) Aids in changing or destroying any poll list or official ballot.
 - b) Aids in wrongfully placing any ballots in the ballot container or in taking any therefrom.
 - c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot container, either before or after the ballots therein have been counted.
 - d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with the intent to change the result of the election, or allows another to do so, when in the person's power to prevent it.
 - e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot container, or

ballots lawfully polled or who willfully detains, mutilates, or destroys any election returns.

- f) Removes any unvoted ballots from the polling place before the completion of the ballot count.
- 7) Defines “vote by mail ballot drop box” to mean a secure receptacle established by a county or city and county elections official whereby a voted VBM ballot may be returned to the elections official from whom it was obtained.
- 8) Requires the SOS to promulgate regulations establishing guidelines based on best practices for security measures and procedures, including, but not limited to, chain of custody, pick-up times, proper labeling, and security of VBM ballot drop boxes, that a county elections official may use if the county elections official establishes one or more VBM ballot drop-off locations.
- 9) Prohibits the SOS from printing the name of a candidate for Governor on a primary election ballot, unless the candidate, at least 98 days before a primary election, files with the SOS copies of the income tax return the candidate filed with the Internal Revenue Service (IRS) in the five most recent taxable years, as specified.
- 10) Requires a candidate for Governor to submit to the SOS when filing their tax returns two hard copies of each tax return and a written consent form granting the SOS permission to publically release a redacted version of the candidate’s tax returns, as specified.
- 11) Requires the candidate to redact specified information and permits the candidate to redact certain other information from the redacted version of each tax return, as specified.
- 12) Requires the SOS to review the redacted copy of each tax return submitted by the candidate to ensure that the redactions comply with existing law. Requires the SOS to prepare a new version of the tax return with only the redactions permitted if the SOS determines that the candidate has redacted information other than that required under existing law. Requires the SOS to make the redacted versions of the tax returns available to the public on the SOS’s internet website, as specified.

This bill:

- 1) Modifies the current distance prohibiting electioneering and other prescribed political activities to within the 100 feet from the entrance to a building that

contains a polling place, an elections official's office, a satellite location, or from an outdoor voting area where a voter may cast their ballot or drop off a ballot, as specified.

- 2) Prohibits obstructing access to a VBM ballot drop box, as specified.
- 3) Prohibits obstructing ingress, egress, or parking with the intent of dissuading another person from voting within 100 feet of a voting site, as specified.
- 4) Prohibits a person from engaging in electioneering and prescribed political activities within the immediate vicinity of a voter in line to cast a ballot or drop off a VBM ballot, as specified.
- 5) Requires that the notices regarding the prohibitions on electioneering and the prohibitions on activity related to corruption of the voting process be provided to the public, as specified. Requires that the SOS promulgate regulations specifying the manner in which these notices are provided.
- 6) Provides that a person is punishable by a fine not exceeding one thousand dollars, or by imprisonment for 16 months or two or three years, or by both that fine and imprisonment, as specified, who:
 - a) Displays a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box, as specified. Establishes that evidence of intent to deceive may include using the word "official" on the container, or otherwise fashioning the container in a way that is likely to deceive a voter into believing that the container is an official collection box that has been approved by an elections official.
 - b) Directs or solicits a voter to place a ballot in a container as mentioned above, as specified.
- 7) Extends an existing deadline for a candidate for Governor to submit tax returns to the SOS to have the candidate's name printed on the direct primary ballot, from 98 days before the direct primary election to 88 days before the direct primary election.
- 8) Deletes provisions of law that require the SOS to prepare a new version of the tax return if the SOS determines a candidate redacted information other than that permitted under existing law, and instead requires the SOS to notify a candidate for Governor of any deficiencies, as specified, and requires the candidate to submit corrected hard copies of the tax return no later than 5 p.m. on the 78th day before the direct primary election. Provides that the candidate

shall not be qualified to appear on the direct primary ballot if the corrected copies are not timely submitted.

- 9) Makes technical, non-substantive changes.

Background

Prohibited Activities near Polling Locations in Other States. According to the National Conference of State Legislatures, each state has some form of restriction on political activities near polling locations when voting is taking place. However, the criteria for prohibited electioneering activities and the parameters regarding the distance of the prohibited zone varies by each state. Additionally, according to the National Association of Secretaries of State, Arkansas, Georgia, and Ohio prohibit electioneering activities within a certain distance of people standing in line to vote in addition to a prohibition zone near a building where voting is taking place.

Tax Return Disclosure Requirements. In 2019, the Legislature approved and Governor Newsom signed SB 27 (McGuire, Chapter 121, Statutes of 2019), which requires a candidate for Governor, as a precondition for appearing on a California primary election ballot, to file copies of their income tax returns with the SOS. SB 27 required a candidate for Governor to submit to the SOS two copies of each tax return filed with the IRS in the five most recent taxable years, as specified. One copy of each tax return was required to be identical to the version submitted to the IRS, without redactions, and the second copy of each tax return had to be redacted in accordance with existing law.

According to the SOS's office, during the process of implementing the provisions of SB 27, and subsequent legal challenges and rulings pertaining to the September 14, 2021, gubernatorial recall election, various implementation issues were discovered. In order to address these concerns before candidate filing for the June 7, 2022, statewide gubernatorial primary election, the SOS has requested certain statutory changes be made. SB 35 extends the deadline for a candidate for Governor to submit tax returns to the SOS and aligns the submission of those documents with the deadline for a candidate to file a declaration of candidacy and nomination papers.

SB 35 also modifies the procedure that applies when a candidate improperly redacts copies of tax returns that are provided to the SOS. Instead of requiring the SOS to prepare a properly-redacted copy of the tax returns as required in certain situations under existing law, this bill requires the SOS to notify a candidate for Governor of any deficiencies in their tax return submissions, as specified, and requires a candidate to submit corrected hard copies of the tax return no later than

5 p.m. on the 78th day before the direct primary election. This bill further clarifies that a candidate is not qualified to appear on the direct primary ballot if the corrected copies are not timely submitted.

Comments

According to the author, SB 35 modernizes state election law to protect voters from intimidation and harassment at the polls and make clarifying changes to help the Secretary of State's office implement existing law related to future gubernatorial filings.

In order to assist with the implementation of this statute, SB 35 will adjust the timeline for these filings and create a process for their office to assist with deficiencies in filings. These changes will not take effect until the 2022 Gubernatorial Election.

SB 35 will also help ensure that all voters are free from electioneering and harassment while casting their ballot by doing the following:

- 1) Extending the protections against harassment and electioneering to protect all voters in line, regardless of where they are standing.
- 2) Clarifying that the word "official" may not appear on unofficial ballot boxes to ensure that voters are provided notice that such receptacles are not official county ballot drop boxes.
- 3) Prohibiting the obstruction of a polling place, with the intent to dissuade another person from voting, within 100ft of a protected voting space.

California's voters deserve to cast their ballots free of partisan harassment and intimidation.

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

According to the Assembly Appropriations Committee:

- 1) SOS costs to develop regulations for the notice to the public on prohibited activities are absorbable.
- 2) Insignificant costs to the Department of Justice to the extent the new crimes added by this bill result in increased prosecutions brought by the department.

- 3) Minor non-reimbursable costs to local governments for enforcement and prosecution, which will likely be offset to some extent by fine revenues. Violations of the “100-foot” law are misdemeanors.

SUPPORT: (Verified 9/8/21)

Secretary of State Shirley N. Weber, Ph.D.
California Teachers Association
Disability Rights California
Orange County Employees Association

OPPOSITION: (Verified 9/8/21)

None received

ASSEMBLY FLOOR: 61-13, 9/2/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, 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, Stone, Ting, Villapudua, Voepel, Ward, Akilah Weber, Wicks, Wood

NOES: Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Patterson, Smith, Valladares, Waldron

NO VOTE RECORDED: Bigelow, Chen, Nguyen, Seyarto, Rendon

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/8/21 19:55:26

**** END ****