

Date of Hearing: June 7, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
SB 25 (Skinner) – As Amended April 13, 2023

SENATE VOTE: 37-0

SUBJECT: Declaration of candidacy: notary.

SUMMARY: Permits a candidate who will not be in California during the candidate nomination period to appear before a notary public of another state to complete their declaration of candidacy. Specifically, **this bill:**

- 1) Allows a candidate, if the candidate will not be within the State of California during the entire nomination period and is unable to appear before a notary public appointed by the Secretary of State (SOS) or other California official to complete their declaration of candidacy, to appear before a notary public in another state to complete the declaration of candidacy. Requires the candidate to attach to their declaration of candidacy a notarial certificate from the out-of-state notary that complies with the law of the notary's state.
- 2) Requires a declaration of candidacy form to state that the notary public or other official completing the certificate verifies only the identity of the individual who signed the document and not the truthfulness, accuracy, or validity of the declaration of candidacy.
- 3) Makes other technical and conforming changes.

EXISTING LAW:

- 1) Defines the term "nomination documents" to mean the declaration of candidacy and nomination papers. (Elections Code §333)
- 2) Requires all candidates for public office at the primary election to file a declaration of candidacy. (Elections Code §§8020, 8040)
- 3) Requires nomination documents to be made available and provided free of charge. Requires nomination documents to be delivered to the county elections official of the candidate's county of residence between the 113th day and the 88th day before an election. (Elections Code §§8020, 8063, 8064, 8101)
- 4) Requires the execution of the declaration of candidacy to be witnessed by an elections official or a notary public. (Elections Code §8040)
- 5) Permits a candidate, in a written statement signed and dated by the candidate, to designate a person to receive a declaration of candidacy form from the elections official and deliver it to the candidate. Requires the statement to include language indicating that the candidate is aware that the declaration of candidacy must be properly executed and delivered to the elections official of the county of the candidate's residence by the 88th day prior to the direct primary election. Requires the statement to be retained by the elections official. (Elections

Code §8028(b))

- 6) Permits the nomination documents to be delivered to the county elections official by a person other than the candidate. (Elections Code §8020(b))
- 7) Requires every person appointed as notary public to meet all of the following requirements:
 - a) Be at the time of appointment a legal resident of California, except as specified.
 - b) Be not less than 18 years of age.
 - c) Have satisfactorily completed a six-hour course of study approved by the SOS pursuant to existing law concerning the functions and duties of a notary public.
 - d) Have satisfactorily completed a written examination prescribed by the SOS to determine the fitness of the person to exercise the functions and duties of the office of notary public.
 - e) Provide satisfactory proof that they have completed the course of study required pursuant to existing law prior to approval of their appointment as a notary public by the SOS, as specified. (Government Code §8201)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

Requiring candidates for statewide office to file their declaration of candidacy physically in California is generally not a problem. However, unavoidable circumstances sometimes arise, such as a family emergency or a significant medical event, which require candidates to be [temporarily] located outside of California during the time period they are required to declare their candidacy. SB 25 ensures the law allows flexibility for these situations by allowing candidates to submit their declaration of candidacy with a U.S. notary public if they are unable to be physically present in California.

- 2) **Notary Publics:** A notary public is an official appointed by the SOS to serve the public as an impartial witness in performing a variety of official acts related to the signing of important documents. Most notarial acts relate to another person signing or certifying a document and the document is commonly said to be “notarized.” The most frequently performed notarial act is an acknowledgment. An acknowledgment is a notarial certificate attached to a document when the notary public confirms the identity of the signer and the signer acknowledges being the signer of the document. By completing a certificate of acknowledgment, the notary public is only notarizing the signature of the person who signed the document and is not certifying the legality of the underlying document. A notary public’s jurisdiction is not limited to the county in which the notary public’s oath and bond are filed, however, existing law prohibits a California notary public from performing notarial acts outside of the borders of California.

The SOS is responsible for overseeing notary public commissions within California. The SOS grants four-year notary public commissions to qualified persons, approves notary public education courses, authorizes notary seal manufacturers, investigates violations of notary public law, and takes disciplinary action.

- 3) **Declaration of Candidacy:** Existing law requires all candidates for office at a primary election to obtain nomination documents from the county elections official of the candidate's county of residence. Nomination documents include nomination papers for collecting signatures and a declaration of candidacy that must be executed by the candidate. A declaration of candidacy is a document on which a person declares themselves a candidate for a particular office, and is required to be submitted for all elective offices. When completing the form, the filer provides specified contact information, and certifies their party preference and that they meet the statutory and constitutional qualifications for the office being sought. In order for a declaration of candidacy to be valid, existing law requires an elections deputy to witness the candidate sign the declaration of candidacy form. However, if a candidate is unable to come in person to the elections office to sign and submit their form during the candidate filing period, existing law requires the declaration of candidacy to be witnessed by a notary public.

This bill additionally allows a candidate who will not be within California during the candidate nomination period and thus will be unable to appear before a California notary public or elections official to sign their declaration of candidacy form to instead appear before a notary public in another state to complete their form.

- 4) **Arguments in Support:** The sponsor of this bill, Secretary of State Dr. Shirley N. Weber, Ph.D., writes:

Senate Bill 25 expands on the existing process used to verify the identity of people who submit a declaration of candidacy to run for state office. Specifically, SB 25 would amend the identity verification process for candidates who do not submit their declaration of candidacy in-person to a county elections official in California. Existing law requires that the declaration of candidacy form is submitted along with a notarial certificate to verify the candidate's identity. However, the requirement to obtain identity verification from an in-state notary public has the potential to create unintended constraints for candidates whose business, public service, or other activities may require a candidate to leave the state during the period for submitting a declaration of candidacy.

Senate Bill 25 aims to solve this problem by allowing candidates for state office to submit a declaration of candidacy performed by a California commissioned notary or a notary outside of California within the United States. This solution would help prevent disenfranchisement of candidates and voters to the extent that the existing process reduces the number of candidates that voters may choose from on Election Day.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Dr. Shirley N. Weber, Ph.D. (Sponsor)
National Notary Association

Opposition

None on file.

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