



petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy.”

- 6) Provides specific procedures by which the Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party, and the Green Party to participate in a presidential primary election.
- 7) Requires by 5 p.m. on the 75<sup>th</sup> day before an election at which electors for President and Vice President will be chosen, that each of these parties notify the SOS of the party’s nominee for President and Vice President. If a party has not yet held its national convention, then the party may notify the SOS of its apparent nominee.
- 8) Requires the SOS to place on the general election ballot the names of the candidates for President and Vice President that the political parties have selected.
- 9) Provides a process to nominate candidates for partisan offices by means other than a partisan primary, including the nomination of a group of presidential electors.
- 10) Provides a process for presidential electors to be selected as write-in candidates.

This bill:

- 1) Requires by 5 p.m. on the 75<sup>th</sup> day before an election at which electors for President and Vice President will be chosen, a representative of each political party certify to the SOS in writing and under penalty of perjury the following:
  - a) The party’s nominee for President is qualified under Amendment XXII to the U.S. Constitution.
  - b) The party’s nominee for Vice President is qualified under Amendment XXII to the U.S. Constitution and therefore eligible under Amendment XII.
- 2) If a party does not make these certifications, then the SOS shall not place the names of the party’s nominees for President and Vice President on the ballot.
- 3) Requires a representative of a group of independent presidential electors that are pledged to vote for a specific candidate for President and Vice President to make this same certification. If this certification is made, then the SOS shall place those candidates’ names on the ballot.
- 4) Requires that a representative of a group of write-in candidates for presidential electors shall by 5 p.m. on the 14<sup>th</sup> day before the election make this same certification. If this certification is made, then the SOS shall include the group of write-in candidates for presidential electors on the SOS’s certified list of write-in candidates.

### **BACKGROUND**

Presidential Elections in California. The process of electing the President and Vice President in California is different than electing individuals to other federal and state

offices. For the most part, the process is partisan with each political party holding a primary to provide direction for the state party's delegation at, typically, a national convention.

In California, candidates need to be recognized by the SOS to be on a political party's presidential primary ballot. Voters, at the statewide primary election, receive a ballot based on their political party preference. Some, but not all, political parties in California allow "crossover" voting, which allow voters who are not affiliated with their political party preference to vote in their primary election.

Following the statewide presidential primary and after every state has their presidential primary or caucus, the delegations from each state convene at their national conventions to select their party's nominee for President and Vice President. When these conventions conclude and by 5 p.m. on the 75<sup>th</sup> day before the election, each political party in California notifies the SOS of their nominees and submit a slate of electors for that political party's nominee.

Voters do not directly elect the President and Vice President. Instead, the U.S. Constitution requires each state to appoint electors who have the responsibility of choosing the President and Vice President. Each state is allocated a number of electors equal to the number of Senators and Representatives the state is entitled to in Congress. The electors from all the states are referred to as the "Electoral College."

When Californians mark their ballots for President and Vice President, they actually are casting their votes for a slate of presidential elector candidates selected by the political party that nominated that presidential ticket (or, in the case of an independent presidential ticket not affiliated with a political party, for a slate of elector candidates that has pledged to vote for that ticket).

Following the statewide presidential general election, the winning slate of electors meet at the California State Capitol to officially vote for President and Vice President. The results are then submitted to Congress for certification.

### **COMMENTS**

- 1) Author's Statement. The current federal administration has repeatedly tested constitutional guardrails and openly floated the idea of seeking a third term. This bill stops these abuses of power before they reach our ballot and protects Californians from bad faith attempts to game the Constitution and undermine our democracy.
- 2) Arguments in Support. Lieutenant Governor Eleni Kounalakis, the bill's sponsor, writes in support saying the bill "strengthens constitutional safeguards by ensuring that candidates placed on the ballot for President and Vice President meet the eligibility requirements set forth in the United States Constitution." Noting that Amendment XXII limits any individual from being elected President more than twice, and Amendment XII bars anyone ineligible to serve as President from serving as Vice President, she states "current law does not provide clear consequences if a political party attempts to place a constitutionally ineligible candidate on the ballot." This bill addresses this gap.

- 3) Clarifying amendment. The author may wish to amend this bill to clarify that the certification for a Vice Presidential candidate is that they are eligible under Amendment XXII to be President, rather than the general language of Amendment XII, which states, in part, that “no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.” The U.S. Constitution prescribes other qualifications to be President, including being at least 35 years or age and a natural born citizen of the U.S.
- 4) Double referral. Should this resolution pass this committee, it will next be heard in the Committee on Public Safety.

**RELATED/PRIOR LEGISLATION**

SB 46 (Umberg) prohibits the SOS from placing the name of a candidate for U.S. President or Vice President on a ballot, unless the candidate affirms, under oath, that the candidate meets the requirements for one of the aforementioned offices and the SOS does not have a reasonable suspicion the candidate is lying. This bill passed the Senate in January but has not been referred to a committee in the Assembly.

**PRIOR ACTION**

Assembly Floor:	75 - 0
Assembly Appropriations Committee:	14 - 0
Assembly Elections Committee:	7 - 0

**POSITIONS**

**Sponsor:** Lieutenant Governor Eleni Kounalakis

**Support:** CFT – A Union of Educators & Classified Professionals, AFT, AFL-CIO  
San Luis Obispo County Democratic Party Central Committee  
Santa Cruz County Board of Supervisors

**Oppose:** One individual

**-- END --**