

Date of Hearing: August 20, 2025

# ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 398 (Umberg) – As Amended July 3, 2025

Policy Committee:	Elections	Vote:	7 - 0
	Public Safety		9 - 0

Urgency: No      State Mandated Local Program: Yes      Reimbursable: No

## SUMMARY:

This bill makes it a crime for a person to pay money or other valuable consideration to another person with the intent to induce that person to vote or register to vote.

This bill defines “other valuable consideration” to include a chance to win a lottery or similar prize-drawing contest and exclude certain acts, such as granting time off to an employee to vote. This bill makes the crime punishable by a fine of up to \$10,000, imprisonment for up to three years, or both.

## FISCAL EFFECT:

- 1) One-time costs of approximately \$120,000 to the Secretary of State (SOS) to add and translate information about the new crime to the SOS’s “Guide to Voter Registration Drives” and notices about a voter’s right to time off to vote (General Fund).
- 2) Ongoing cost pressures (General Fund (GF) or Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount, to the trial courts in increased workload, as this bill creates a new crime. A criminal defendant is entitled to no-cost legal representation and a jury trial. It is unclear how many new charges may be filed statewide, but the estimated workload cost of one hour of court time is \$1,000. Although courts are not funded on the basis of workload, increased pressure on staff and the TCTF may create a demand for increased court funding from the GF to perform existing duties. The Budget Act of 2025 provides \$82 million ongoing GF to the TCTF for court operations.
- 3) Potential ongoing costs to the California Department of Corrections and Rehabilitation (CDCR) (GF) and non-reimbursable costs to county jails, to the extent this bill results in additional incarcerations. Actual costs depend on the number of charges and convictions, defendants’ criminal histories, and judicial discretion, all of which is unknown. The average annual cost to incarcerate a person is approximately \$133,000 for CDCR and \$29,000 for a county jail. California county jails are increasingly overcrowded. Although new crimes are not considered reimbursable state mandates, overcrowding in county jails creates cost pressure on the GF because the state has historically granted new funding to counties to offset overcrowding after the 2011 Realignment Act.

## COMMENTS:

- 1) **Purpose.** According to the author:

In October 2024, Elon Musk’s “America PAC” announced a \$1 million lottery for individuals in swing states who signed a petition supporting the First and Second Amendments. Despite vote buying being illegal, Musk and the PAC argued that they weren’t directly paying people to vote in a specific way...However, it can still be inferred that America PAC created an alluring offer that likely incentivized constituents to register to vote if they had not already done so with a designated swing state...My bill, SB 398 will make it clear that such electioneering is not welcome in California.

- 2) **Value of a Vote.** Existing federal law prohibits paying or providing anything of value to a person to vote or register to vote in a federal election, or accepting any such payment. Existing state law prohibits paying or providing anything of value to a person to vote or refrain from voting for a particular candidate or measure. Thus, state law does not expressly prohibit such payment to a person to generally vote in a local or state election where there is no federal office on the ballot. This bill expands state law to more broadly prohibit a person from paying money or other valuable consideration to another person with the intent to induce the person to vote or register to vote, and specifies that “other valuable consideration” includes a lottery or similar prize-drawing contest.
- 3) **Support and Opposition.** This bill is co-sponsored by California Civil Liberties Advocacy, which argues this bill “addresses a troubling and increasingly sophisticated trend in electoral politics” that “distort[s] the voluntary nature of civic participation and raise[s] serious questions about fairness, equity, and the potential commodification of voting rights.” This bill is also supported by elections transparency groups.

This bill is opposed by the San Francisco Public Defender’s Office, which argues, “While the bill may be well-intentioned, it creates an unnecessary, new felony within our criminal legal system.”

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