
UNFINISHED BUSINESS

Bill No: SB 398
Author: Umberg (D), et al.
Amended: 7/3/25 in Assembly
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 5-0, 4/1/25
AYES: Cervantes, Choi, Allen, Limón, Umberg

SENATE PUBLIC SAFETY COMMITTEE: 6-0, 4/22/25
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab
NO VOTE RECORDED: Dahle

SENATE FLOOR: 38-0, 5/29/25
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear,
Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez,
Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello,
Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas,
Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener
NO VOTE RECORDED: Limón, Reyes

ASSEMBLY FLOOR: 79-0, 9/8/25 - See last page for vote

SUBJECT: Election crimes: payment based on voting or voter registration

SOURCE: Author

DIGEST: This bill prohibits a person from paying or offering to pay money or other valuable consideration to another person to register to vote or vote.

Assembly Amendments of 7/3/25 provided exceptions to the provisions of this bill and added a coauthor.

ANALYSIS:

Existing federal law prohibits a person from paying or offering to pay another person to register to vote, or from accepting payment to register to vote in a federal election.

Existing state law:

- 1) Requires any person who, in exchange for money or other valuable consideration, assists another person to register to vote to provide identifying information about the person, company, or organization, if any, that agrees to pay money or other valuable consideration for the completed affidavit of registration.
- 2) Requires, under state law, a person, company, or other organization that agrees to pay money or other valuable consideration to a person who assists another person to register to vote by assisting to register or by receiving the completed affidavit of registration to maintain records and ensure that the provisions in 1) of existing state law are being followed.

This bill:

- 1) Provides any person who knowingly or willfully pays or offers to pay money or other valuable consideration to another person with the intent to induce the person to vote or to register to vote, or where the payment is contingent upon whether the person voted or the person's voter registration status, is guilty of a crime.
- 2) Defines "other valuable consideration" to include, but is not limited to, a chance to win a lottery or similar prize-drawing contest.
- 3) Provides that the provisions of this bill do not apply to the following:
 - a) Transportation to or from a voting location.
 - b) Compensation provided to an individual by a governmental entity.
 - c) Granting time off to an employee to vote.
- 4) Provides that a violation is punishable by a fine of up to \$10,000, by imprisonment for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment.

Background

Federal Law. Existing federal law prohibits a person from paying another person for registering to vote in federal elections. This includes elections where a federal office is being considered at a primary, general, or special election.

Generally, a person's voter registration is valid for every election after following the initial registration if all the other pertinent information (name, address, etc.) remains the same. Voter registrations in California include federal elections because a voter's registration is maintained beyond one election. As federal law prohibits the payment to a person registering to vote, it is already illegal for this type of transaction to take place.

State Law. Existing state law consists of provisions relating to a person, organization, or other entity paying another person to register voters. This includes what information is collected by the person registering others to vote, how that information is separated, and the timeliness of submitting voter registration affidavits. The law also includes penalties for entities that misrepresent themselves when registering voters or do not comply with the provisions previously mentioned. There is nothing in state law that explicitly prohibits a person from providing compensation to another person to register to vote.

While California does not currently have a crime directed at paying someone to register to vote, it is a crime to pay or provide valuable consideration to a person to induce them to vote for a particular person or measure or to reward them for voting for a particular person or ballot measure. It is also a crime to pay or receive any money or other valuable consideration in order to reward a person or as a reward for voting for or against or agreeing to vote for or against the election or endorsement of any other person as the nominee or candidate of any caucus, convention, organized assemblage of delegates, or other body representing or claiming to represent a political party, candidate, or principle, or any club, society, or association. Both offenses are punishable by imprisonment in the county jail for 16 months, two years, or three years.

America PAC and Recent Elections. During the 2024 presidential election, America PAC announced that it was awarding \$1 million per day until Election Day to a voter who signed America PAC's petition to support the United States Constitution. This was open to registered voters in seven states - Arizona, Georgia, Michigan, Nevada, North Carolina, Pennsylvania, and Wisconsin.

In Pennsylvania, Philadelphia District Attorney Larry Krasner sued to block the effort, alleging that the payouts were an illegal lottery. Judge Angelo J. Foglietta

ruled that Krasner failed to establish the three required elements that constitute a lottery: 1) a prize to be won, 2) a winner determined by chance, and 3) a payment of consideration by the player. Judge Foglietta ruled that those selected earned their compensation by agreeing to be a spokesperson for America PAC. It was noted that America PAC selected people using a multi-step process that included reviewing social media posts and meeting in-person to see if the person was a good fit for the role.

In 2025, America PAC used a similar approach in the weeks prior to a state Supreme Court election offering \$100 to Wisconsin voters to sign a petition in opposition to “activist judges.”

Comments

Author’s Statement. 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. Musk and America PAC claimed legality on the basis that they weren’t technically paying someone to vote in a particular manner. 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.

Related/Prior Legislation

SB 1348 (Battin, Chapter 377, Statutes of 2006) made it a misdemeanor offense, with punishment by a fine of up to \$1,000, imprisonment up to six months in county jail, or both for any person to knowingly misrepresent themselves while providing assistance when registering another person to vote, unless certain conditions are met.

SB 1077 (Schiff, Chapter 456, Statutes of 1997) among other provisions, requires individuals or organizations paying to register people to vote to identify and separate submitted affidavits into groups that do and do not comply with specified provisions relating to the completeness of voter registration affidavits. The bill also established penalties for failure to comply.

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

According to the Assembly Committee on Appropriations:

- 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 (GF)).

- 2) Ongoing cost pressures (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.

SUPPORT: (Verified 9/8/25)

California Civil Liberties Advocacy
California Clean Money Campaign
One individual

OPPOSITION: (Verified 9/8/25)

None received

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio,

Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa,
Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Nguyen

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
9/8/25 19:42:25

**** **END** ****