

Date of Hearing: August 5, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 46 (Umberg) – As Amended June 24, 2026

Policy Committee:	Judiciary	Vote:	9 - 3
	Elections		6 - 2

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

SUMMARY:

This bill prohibits the Secretary of State (SOS) from placing the name of a candidate for President or Vice President on the ballot under certain conditions and authorizes an elector to directly challenge the qualifications of such a candidate in court.

Specifically, this bill:

- 1) Prohibits the SOS from certifying and placing the name of a candidate for President or Vice President on the ballot if the candidate does not affirm under oath that the candidate fully meets the qualifications for the office, or if the SOS determines that the election of the candidate would violate the U.S. Constitution (“determination”).
- 2) Authorizes the SOS, if the SOS concludes further investigation is needed to make a determination, to refer the matter to the Attorney General (AG) for investigation, and allows the AG to appoint an independent special counsel to assist the investigation.
- 3) Requires the SOS or AG, if such a determination is made by the official, to issue a public notice memorializing the determination and distribute the determination to the news media for publication.
- 4) Authorizes an elector to challenge the qualifications of a candidate for President or Vice President by filing a petition in the Superior Court of the County of Sacramento no later than 85 days before a primary election or 72 days before a general election; authorizes a candidate to challenge the SOS’s, AG’s, or special prosecutor’s determination in the same court no later than 72 hours after the determination is made for a primary election or 24 hours after for a general election; and provides expedited judicial review timelines for both actions.

FISCAL EFFECT:

- 1) Costs of approximately \$820,000 in the first year and \$590,000 annually thereafter to the SOS for additional administrative and legal staff workload to determine whether a candidate satisfies constitutional qualifications for office, administer candidate affirmations under oath, publicly announce and distribute determinations, and defend determinations in expedited court proceedings (General Fund). The SOS notes that given the state’s prior experience with litigation involving presidential ballot access requirements, this bill may result in additional costs beyond this estimate depending on the number of candidate challenges, the complexity of making determinations, and the extent of judicial proceedings.

- 2) Costs of approximately \$343,000 in fiscal year (FY) 2026-27 and \$432,000 in FY 2027-28 and annually thereafter to the AG or the appointed independent special counsel to investigate a candidate's eligibility upon request of the SOS and defend determinations in expedited court proceedings (Legal Services Revolving Fund, reimbursable through direct billings to the applicable client agency (likely the SOS)).
- 3) Ongoing cost pressures of an unknown amount to the courts in additional workload by allowing an elector (generally, a person qualified to be a California voter) to challenge the qualifications of a candidate for President or Vice President and allowing a candidate to challenge the SOS's, AG's, or special prosecutor's determination, subject to expedited review (GF or Trial Court Trust Fund (TCTF)). It is unclear how many petitions may be filed and how much court time may be needed to resolve each case, but it generally costs approximately \$1,000 to operate a courtroom for one hour. 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. The state budget provides annual GF backfills to the TCTF to offset revenue reductions, totaling approximately \$117.3 million in fiscal year 2025-26.

COMMENTS:

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

For more than five years, President Trump has maintained that a third term or third presidential run is possible. This is a clear violation of the 22nd Amendment, which has existed for 75 years, and illustrates one of the most clear and unambiguous Article Two requirements. If President Trump cannot condone such obviously unconstitutional actions, states must be able to disqualify candidates who seek to be placed on the ballot who don't meet basic constitutional requirements, such as age, place of birth, and number of previous terms served.

- 2) **Background. *Constitutional Requirements for President.*** The U.S. Constitution (a) provides that a person eligible to serve as President must be at least 35 years old, a U.S. resident for at least 14 years, and a natural born citizen, (b) prohibits a person from holding an U.S. office if the person engaged in insurrection or rebellion against the U.S. after having previously taken an oath to support the U.S. Constitution, and (c) provides that a person must be eligible to be President to be Vice President.

Additionally, the 22nd Amendment of the U.S. Constitution was ratified in 1951 to set a two-term limit for the presidency after the death of President Roosevelt, the only US President who served more than two terms in that office. Although the plain language of the 22nd Amendment bars President Trump from being elected to the presidency again, after being elected to the office in 2016 and 2024, President Trump and his allies have suggested that he could run for a third term.

Scope of This Bill. This bill prohibits the SOS from placing the name of a candidate for President or Vice President on the ballot if: (a) the candidate does not affirm under oath to meeting the qualifications for office, or (b) the SOS, AG, or special prosecutor makes a determination that the election of the candidate would violate the U.S. Constitution. Thus,

this bill's prohibition is not limited to the 22nd Amendment. This bill also authorizes a California voter to directly challenge the candidate's qualifications in court.

As noted in the Assembly Elections Committee's analysis of this bill:

While the determination of whether a candidate for President or Vice President has already served two terms of office is relatively straightforward one, determining whether a candidate meets other qualifications found in the US Constitution may be less easily resolved, and could require greater investigation and fact finding. Questions about whether the SOS may exclude presidential candidates from the ballot based on eligibility concerns have been litigated frequently in California and across the country in recent years...

Each of these cases involved distinct factual circumstances regarding candidate eligibility and raised questions about whether the SOS has the authority – or obligation – to exclude candidates from the ballot on that basis. This bill would expressly grant that authority to the SOS.

- 3) **Support and Opposition.** This bill is supported by a local political group, a labor organization, and a government accountability group, Citizens for Responsibility and Ethics in Washington, which argues this bill will “ensure that Californians are not effectively disenfranchised by having an ineligible candidate appear on their ballot.”

This bill is opposed by the Peace and Freedom Party of California, which argues “it creates an unnecessary bureaucratic burden that presidential candidates must overcome in order to be listed on our party's presidential preference primary ballot” and “if they are in fact ineligible, those who support them deserve to be able to vote for them.”

- 4) **Related Legislation.** AB 1539 (Addis) requires a representative of each political party to certify to the SOS that the party's nominees for President and Vice President are qualified for that office under the 22nd Amendment of the U.S. Constitution. AB 1539 is pending hearing by the Senate Appropriations Committee.

Analysis Prepared by: Irene Ho / APPR. / (916) 319-2081