

AMENDED IN ASSEMBLY APRIL 15, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1492

Introduced by Assembly Member Low

February 27, 2015

~~An act to amend Section 777.1 of the Insurance Code, relating to insurance.~~*An act to amend Sections 5100, 5151, 18201, 18202, 18203, 18204, 18600, 18601, 18603, 18604, 18610, 18611, 18612, 18613, 18614, 18620, 18621, 18622, 18630, 18631, 18640, 18650, 18660, and 18661 of, and to add Section 338.5 to, the Elections Code, relating to elections.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1492, as amended, Low. ~~Insurance: inducements to purchase property or services.~~*Elections: in-lieu-filing-fee and political party qualification petitions: penal provisions.*

Existing law authorizes a political party to qualify to participate in a primary election if specified requirements are met, including the filing with the Secretary of State of a petition signed by voters declaring that the voters represent a proposed party desiring to participate in that primary election.

This bill would define the term "political party qualification petition" for these purposes to mean a petition circulated to qualify a political party in accordance with existing procedures.

Existing law provides that a person committing specified acts relating to the circulation, subscription, or signature of an initiative, referendum,

or recall petition is guilty of a misdemeanor or felony subject to a fine or imprisonment or both that fine and imprisonment.

This bill would additionally provide that a person committing these specified acts in relation to the circulation, subscription, or signature of a political party qualification petition would be subject to the above penal provisions. By creating additional crimes, this bill would impose a state-mandated local program.

Existing law authorizes a candidate to submit a petition containing signatures of registered voters in lieu of a filing fee, as specified. Existing law also provides that a person who commits specified fraudulent or deliberate acts relating to the filing of a nomination paper or declaration of candidacy is guilty of a misdemeanor subject to a fine or imprisonment or both that fine and imprisonment.

This bill would additionally provide that a person committing these specified acts in relation to the submission of an in-lieu-filing-fee petition would be subject to the penal provisions specified above. By creating additional crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law prohibits an insurer from participating in a plan to offer or effect insurance or annuities as an inducement to the purchase or rental by the public of specified property or services without a separate charge for that insurance. Existing law also prohibits an agent, broker, or solicitor from arranging the sale of that insurance. Existing law authorizes the Insurance Commissioner to revoke the license, certificate, or other authority to do business or engage in his or her occupation, as applicable, of an insurer, agent, broker, or solicitor who willfully violates those prohibitions. Existing law specifies exceptions to those prohibitions for certain categories of insurance.~~

~~This bill would add to the existing exceptions described above private passenger automobile insurance issued in connection with the sale or lease of a new vehicle and paid for by the vehicle manufacturer, provided that prior to finalizing the purchase the purchaser is advised of the cost of that insurance included in connection with the sale or lease.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 338.5 is added to the Elections Code, to
2 read:

3 338.5. “Political party qualification petition” means a petition
4 circulated to qualify a political party in accordance with Division
5 5 (commencing with Section 5000).

6 SEC. 2. Section 5100 of the Elections Code is amended to read:

7 5100. A party is qualified to participate in a primary election
8 under any of the following conditions:

9 (a) (1) At the last preceding gubernatorial primary election, the
10 sum of the votes cast for all of the candidates for an office voted
11 on throughout the state who disclosed a preference for that party
12 on the ballot was at least 2 percent of the entire vote of the state
13 for that office.

14 (2) Notwithstanding paragraph (1), a party may inform the
15 Secretary of State that it declines to have the votes cast for any
16 candidate who has disclosed that party as his or her party preference
17 on the ballot counted toward the 2-percent qualification threshold.
18 If the party wishes to have votes for any candidate not counted in
19 support of its qualification under paragraph (1), the party shall
20 notify the secretary in writing of that candidate’s name by the
21 seventh day prior to the gubernatorial primary election.

22 (b) On or before the 135th day before a primary election, it
23 appears to the Secretary of State, as a result of examining and
24 totaling the statement of voters and their declared political
25 preference transmitted to him or her by the county elections
26 officials, that voters equal in number to at least 0.33 percent of the
27 total number of voters registered on the 154th day before the
28 primary election have declared their preference for that party.

29 (c) On or before the 135th day before a primary election, there
30 is filed with the Secretary of State a *political party qualification*
31 petition signed by voters, equal in number to at least 10 percent
32 of the entire vote of the state at the last preceding gubernatorial
33 election, declaring that ~~they represent~~ *the voters signing the petition*
34 *support qualification of* a proposed party, the name of which shall
35 be stated in the petition, which proposed party those voters desire

1 to have participate in that primary election. This petition shall be
2 circulated, ~~signed~~, *signed* and verified, and the signatures of the
3 voters on it shall be certified to and transmitted to the Secretary
4 of State by the county elections officials substantially as provided
5 for initiative petitions. Each page of the petition shall bear a caption
6 in 18-point boldface type, which caption shall be the name of the
7 proposed party followed by the words “Petition to participate in
8 the primary election.”

9 *SEC. 3. Section 5151 of the Elections Code is amended to read:*

10 5151. A party is qualified to participate in a presidential general
11 election under any of the following conditions:

12 (a) The party qualified to participate and participated in the
13 presidential primary election preceding the presidential general
14 election pursuant to Section 5100.

15 (b) (1) At the last preceding gubernatorial primary election, the
16 sum of the votes cast for all of the candidates for an office voted
17 on throughout the state who disclosed a preference for that party
18 on the ballot was at least 2 percent of the entire vote of the state
19 for that office.

20 (2) Notwithstanding paragraph (1), a party may inform the
21 Secretary of State that it declines to have the votes cast for any
22 candidate who has disclosed that party as his or her party preference
23 on the ballot counted toward the 2-percent qualification threshold.
24 If the party wishes to have votes for any candidate not counted in
25 support of its qualification under paragraph (1), the party shall
26 notify the secretary in writing of that candidate’s name by the
27 seventh day prior to the gubernatorial primary election.

28 (c) If on or before the 102nd day before a presidential general
29 election, it appears to the Secretary of State, as a result of
30 examining and totaling the statement of voters and their declared
31 political preference transmitted to him or her by the county
32 elections officials, that voters equal in number to at least 0.33
33 percent of the total number of voters registered on the 123rd day
34 before the presidential general election have declared their
35 preference for that party.

36 (d) On or before the 135th day before a presidential general
37 election, there is filed with the Secretary of State a *political party*
38 *qualification* petition signed by voters, equal in number to at least
39 10 percent of the entire vote of the state at the last preceding
40 gubernatorial election, declaring that ~~they represent~~ *the voters*

1 *signing the petition support qualification of* a proposed party, the
2 name of which shall be stated in the petition, which proposed party
3 those voters desire to have participate in that presidential general
4 election. This petition shall be circulated, signed, and verified, and
5 the signatures of the voters on it shall be certified to and transmitted
6 to the Secretary of State by the county elections officials
7 substantially as provided for initiative petitions. Each page of the
8 petition shall bear a caption in 18-point boldface type, which
9 caption shall be the name of the proposed party followed by the
10 words "Petition to participate in the presidential general election."

11 *SEC. 4. Section 18201 of the Elections Code is amended to*
12 *read:*

13 18201. Any person who falsely makes or fraudulently defaces
14 or destroys all or any part of a nomination~~paper~~, *paper or an*
15 *in-lieu-filing-fee petition*, is punishable by a fine not exceeding
16 one thousand dollars (\$1,000) or by imprisonment pursuant to
17 subdivision (h) of Section 1170 of the Penal Code for 16 months
18 or two or three years or by both that fine and imprisonment.

19 *SEC. 5. Section 18202 of the Elections Code is amended to*
20 *read:*

21 18202. Every person acting on behalf of a candidate is guilty
22 of a misdemeanor who deliberately fails to file at the proper time
23 and in the proper place any nomination~~paper~~ *paper*;
24 *in-lieu-filing-fee petition*, or declaration of candidacy in his or her
25 possession that is entitled to be filed under this code.

26 *SEC. 6. Section 18203 of the Elections Code is amended to*
27 *read:*

28 18203. Any person who files or submits for filing a nomination
29 ~~paper~~ *paper, in-lieu-filing-fee petition*, or declaration of candidacy
30 knowing that it or any part of it has been made falsely is punishable
31 by a fine not exceeding one thousand dollars (\$1,000) or by
32 imprisonment pursuant to subdivision (h) of Section 1170 of the
33 Penal Code for 16 months or two or three years or by both that
34 fine and imprisonment.

35 *SEC. 7. Section 18204 of the Elections Code is amended to*
36 *read:*

37 18204. Any person who willfully suppresses all or any part of
38 a nomination~~paper~~ *paper, in-lieu-filing-fee petition*, or declaration
39 of candidacy either before or after filing is punishable by a fine
40 not exceeding one thousand dollars (\$1,000) or by imprisonment

1 pursuant to subdivision (h) of Section 1170 of the Penal Code for
 2 16 months or two or three years or by both that fine and
 3 imprisonment.

4 *SEC. 8. Section 18600 of the Elections Code is amended to*
 5 *read:*

6 18600. Every person is guilty of a misdemeanor who:

7 (a) Circulating, as principal or agent, or having charge or control
 8 of the circulation of, or obtaining signatures to, any state or local
 9 initiative, ~~referendum~~ *referendum*, *recall*, or ~~recall~~ *political party*
 10 *qualification* petition, intentionally misrepresents or intentionally
 11 makes any false statement concerning the contents, purport or
 12 effect of the petition to any person who signs, or who desires to
 13 sign, or who is requested to sign, or who makes inquiries with
 14 reference to it, or to whom it is presented for his or her signature.

15 (b) Willfully and knowingly circulates, publishes, or exhibits
 16 any false statement or misrepresentation concerning the contents,
 17 purport or effect of any state or local initiative, referendum, *recall*,
 18 or ~~recall~~ *political party qualification* petition for the purpose of
 19 obtaining any signature to, or persuading or influencing any person
 20 to sign, that petition.

21 (c) Circulating, as principal or agent, or having charge or control
 22 of the circulation of, or obtaining signatures to, any state or local
 23 initiative, or *political party qualification petition* intentionally
 24 makes any false statement in response to any inquiry by any voter
 25 as to whether he or she is a paid signature gatherer or a volunteer.

26 *SEC. 9. Section 18601 of the Elections Code is amended to*
 27 *read:*

28 18601. Any person working for the proponent or proponents
 29 of an initiative or referendum-~~measure~~ *measure*, *recall petition*,
 30 or ~~recall~~ *political party qualification* petition who refuses to allow
 31 a prospective signer to read the measure or petition is guilty of a
 32 misdemeanor.

33 An arrest or conviction pursuant to this section shall not
 34 invalidate or otherwise affect the validity of any signature obtained
 35 by the person arrested or convicted.

36 *SEC. 10. Section 18603 of the Elections Code is amended to*
 37 *read:*

38 18603. Every person who offers or gives money or other
 39 valuable consideration to another in exchange for his or her
 40 signature on a state, county, municipal, or district initiative,

1 referendum, *recall*, or ~~recall~~ *political party qualification* petition
2 is guilty of a misdemeanor.

3 *SEC. 11. Section 18604 of the Elections Code is amended to*
4 *read:*

5 18604. Upon conviction of a violation of any provision of this
6 article, Article 2 (commencing with Section 18610), Article 3
7 (commencing with Section 18620), Article 5 (commencing with
8 Section 18640), Article 6 (commencing with Section 18650), or
9 Article 7 (commencing with Section 18660), the court may order
10 as a condition of probation that the convicted person be prohibited
11 from receiving money or other valuable consideration for gathering
12 signatures on an initiative, referendum, *recall*, or ~~recall~~ *political*
13 *party qualification* petition.

14 *SEC. 12. Section 18610 of the Elections Code is amended to*
15 *read:*

16 18610. Every person who solicits any circulator to affix to any
17 initiative, referendum, *recall*, or ~~recall~~ *political party qualification*
18 petition any false or forged signature, or to cause or permit a false
19 or forged signature to be affixed, is guilty of a misdemeanor.

20 *SEC. 13. Section 18611 of the Elections Code is amended to*
21 *read:*

22 18611. Every person is punishable by a fine not exceeding five
23 thousand dollars (\$5,000), or by imprisonment pursuant to
24 subdivision (h) of Section 1170 of the Penal Code for 16 months
25 or two or three years, or in a county jail not exceeding one year,
26 or by both that fine and imprisonment, who circulates or causes
27 to be circulated any initiative, referendum, *recall*, or ~~recall~~ *political*
28 *party qualification* petition, knowing it to contain false, forged, or
29 fictitious names.

30 *SEC. 14. Section 18612 of the Elections Code is amended to*
31 *read:*

32 18612. Every person is guilty of a misdemeanor who knowingly
33 signs his or her own name more than once to any initiative,
34 referendum, *recall*, or ~~recall~~ *political party qualification* petition,
35 or signs his or her name to that petition knowing himself or herself
36 at the time of signing not to be qualified to sign it.

37 *SEC. 15. Section 18613 of the Elections Code is amended to*
38 *read:*

39 18613. Every person who subscribes to any initiative,
40 referendum, *recall*, or ~~recall~~ *political party qualification* petition

1 a fictitious name, or who subscribes thereto the name of another,
 2 or who causes another to subscribe such a name to that petition,
 3 is guilty of a felony and is punishable by imprisonment pursuant
 4 to subdivision (h) of Section 1170 of the Penal Code for two, three,
 5 or four years.

6 *SEC. 16. Section 18614 of the Elections Code is amended to*
 7 *read:*

8 18614. Every person is punishable by a fine not exceeding five
 9 thousand dollars (\$5,000), or by imprisonment pursuant to
 10 subdivision (h) of Section 1170 of the Penal Code for 16 months
 11 or two or three years, or in a county jail not exceeding one year,
 12 or by both that fine and imprisonment, who files in the office of
 13 the elections official or other officer designated by law to receive
 14 the filing, any initiative, referendum, *recall*, or ~~recall~~ *political*
 15 *party qualification* petition to which is attached, ~~appended~~
 16 *appended*, or subscribed any signature which the person filing the
 17 petition *or measure* knows to be false or fraudulent or not the
 18 genuine signature of the person whose name it purports to be.

19 *SEC. 17. Section 18620 of the Elections Code is amended to*
 20 *read:*

21 18620. Every person who seeks, solicits, bargains for, or
 22 obtains any money, thing of value, or advantage of or from any
 23 person, firm, or corporation for the purpose or represented purpose
 24 of fraudulently inducing, persuading, or seeking the proponent or
 25 proponents of any initiative or referendum ~~measure~~ *measure*, *recall*
 26 *petition*, or ~~recall~~ *political party qualification* petition to (a)
 27 abandon the measure or petition, (b) fail, neglect, or refuse to file
 28 in the office of the elections official or other officer designated by
 29 law, within the time required by law, the initiative or referendum
 30 ~~measure~~ *measure*, *recall petition*, or ~~recall~~ *political party*
 31 *qualification* petition after securing the number of signatures
 32 required to qualify the measure or petition, (c) stop the circulation
 33 of the initiative or referendum ~~measure~~ *or measure*, *recall petition*,
 34 or *political party qualification petition*, or (d) perform any act that
 35 will prevent or aid in preventing the initiative or referendum
 36 ~~measure~~ *measure*, *recall petition*, or ~~recall~~ *political party*
 37 *qualification* petition from qualifying as an initiative or referendum
 38 measure, or the recall petition from resulting in a recall election,
 39 or *political party qualification petition* from qualifying a party is
 40 punishable by a fine not exceeding five thousand dollars (\$5,000),

1 or by imprisonment pursuant to subdivision (h) of Section 1170
2 of the Penal Code for 16 months or two or three years, or in a
3 county jail not exceeding one year, or by both that fine and
4 imprisonment.

5 *SEC. 18. Section 18621 of the Elections Code is amended to*
6 *read:*

7 18621. Any proponent of an initiative or referendum ~~measure~~
8 ~~or recall~~ *measure, recall petition, or political party qualification*
9 petition who seeks, solicits, bargains for, or obtains any money or
10 thing of value of or from any person, firm, or corporation for the
11 purpose of abandoning the same or stopping the circulation of
12 petitions concerning the same, or failing or neglecting or refusing
13 to file the measure or petition in the office of the elections official
14 or other officer designated by law within the time required by law
15 after obtaining the number of signatures required under the law to
16 qualify the measure or petition, or ~~withdrawing an initiative petition~~
17 ~~after filing it with the appropriate elections official, or performing~~
18 any act that will prevent or aid in preventing the initiative,
19 referendum, ~~or~~ recall, *or political party* proposed from qualifying
20 as an initiative or referendum measure, ~~or~~ resulting in a recall
21 election, *or qualifying as a political party by a political party*
22 *qualification petition* is punishable by a fine not exceeding five
23 thousand dollars (\$5,000) or by imprisonment pursuant to
24 subdivision (h) of Section 1170 of the Penal Code for 16 months
25 or two or three years, or in a county jail not exceeding one year,
26 or by both that fine and imprisonment.

27 *SEC. 19. Section 18622 of the Elections Code is amended to*
28 *read:*

29 18622. Every person who offers to buy or does buy from a
30 circulator any referendum, initiative, *recall, or recall* ~~recall~~ *political party*
31 *qualification* petition on which one or more persons have affixed
32 their signatures is guilty of a misdemeanor punishable by
33 imprisonment in the county jail for not more than one year, or by
34 a fine not exceeding one thousand dollars (\$1,000), or both. This
35 section is not intended to prohibit compensation of a circulator,
36 for his or her services, by a proponent of the petition or his or her
37 agent.

38 *SEC. 20. Section 18630 of the Elections Code is amended to*
39 *read:*

1 18630. Every person who threatens to commit an assault or
 2 battery on a person circulating a referendum, initiative, *recall*, or
 3 ~~recall~~ *political party qualification* petition or on a relative of a
 4 person circulating a referendum, initiative, *recall*, or ~~recall~~ *political*
 5 *party qualification* petition or to inflict damage on the property of
 6 the circulator or the relative, with the intent to dissuade the
 7 circulator from circulating the petition or in retribution for the
 8 circulation, is guilty of a misdemeanor.

9 *SEC. 21. Section 18631 of the Elections Code is amended to*
 10 *read:*

11 18631. Every person who forcibly or by stealth takes from the
 12 possession of a circulator any initiative, referendum, *recall*, or
 13 ~~recall~~ *political party qualification* petition on which one or more
 14 persons have affixed their signatures is guilty of a misdemeanor.

15 *SEC. 22. Section 18640 of the Elections Code is amended to*
 16 *read:*

17 18640. Any person working for the proponent or proponents
 18 of an initiative or referendum ~~measure~~ *measure*, or a ~~recall~~ ~~petition~~
 19 *or political party qualification petition*, who solicits signatures to
 20 qualify the measure or petition and accepts any payment therefor
 21 and who fails to surrender the measure or petition to the proponents
 22 thereof for filing is punishable by a fine not exceeding five
 23 thousand dollars (\$5,000), or by imprisonment pursuant to
 24 subdivision (h) of Section 1170 of the Penal Code for 16 months
 25 or two or three years, or in a county jail not exceeding one year,
 26 or by both that fine and imprisonment.

27 *SEC. 23. Section 18650 of the Elections Code is amended to*
 28 *read:*

29 18650. No one shall knowingly or willfully permit the list of
 30 signatures on an initiative, referendum, *recall*, or ~~recall~~ *political*
 31 *party qualification* petition to be used for any purpose other than
 32 qualification of the initiative or referendum measure or recall
 33 question for the ~~ballot~~, *ballot or political party*, except as provided
 34 in Section 6253.5 of the Government Code. Violation of this
 35 section is a misdemeanor.

36 *SEC. 24. Section 18660 of the Elections Code is amended to*
 37 *read:*

38 18660. Every person is punishable by a fine not exceeding five
 39 thousand dollars (\$5,000), or by imprisonment pursuant to
 40 subdivision (h) of Section 1170 of the Penal Code for 16 months

1 or two or three years, or in a county jail not exceeding one year,
2 or by both that fine and imprisonment, who makes any false
3 affidavit concerning any initiative, referendum, *recall*, or ~~recall~~
4 *political party qualification* petition or the signatures appended
5 thereto.

6 *SEC. 25. Section 18661 of the Elections Code is amended to*
7 *read:*

8 18661. Every public official or employee is punishable by a
9 fine not exceeding five thousand dollars (\$5,000), or by
10 imprisonment pursuant to subdivision (h) of Section 1170 of the
11 Penal Code for 16 months or two or three years, or in a county jail
12 not exceeding one year, or by both that fine and imprisonment,
13 who knowingly makes any false return, certification or affidavit
14 concerning any initiative, referendum, *recall*, or ~~recall~~ *political*
15 *party qualification* petition or the signatures appended thereto.

16 *SEC. 26. No reimbursement is required by this act pursuant*
17 *to Section 6 of Article XIII B of the California Constitution because*
18 *the only costs that may be incurred by a local agency or school*
19 *district will be incurred because this act creates a new crime or*
20 *infraction, eliminates a crime or infraction, or changes the penalty*
21 *for a crime or infraction, within the meaning of Section 17556 of*
22 *the Government Code, or changes the definition of a crime within*
23 *the meaning of Section 6 of Article XIII B of the California*
24 *Constitution.*

25 ~~SECTION 1. Section 777.1 of the Insurance Code is amended~~
26 ~~to read:~~

27 ~~777.1. No insurer shall participate in a plan to offer or effect~~
28 ~~insurance or annuities in this state as an inducement to the purchase~~
29 ~~or rental by the public of property, real or personal or mixed, or~~
30 ~~services, without a separate charge to the insured for that insurance,~~
31 ~~nor shall a agent, broker, or solicitor arrange the sale of that~~
32 ~~insurance. This article does not apply to insurance written in~~
33 ~~connection with subscriptions to newspapers of general circulation;~~
34 ~~nor does it apply to insurance issued to credit unions or to members~~
35 ~~of credit unions in connection with the purchase of shares in the~~
36 ~~credit union; nor does it apply to insurance offered as a guarantee~~
37 ~~of the performance of goods, that is designed to protect the~~
38 ~~purchasers or users of such goods; nor does it apply to private~~
39 ~~passenger automobile insurance issued in connection with the sale~~
40 ~~or lease of a new vehicle and paid for by the vehicle manufacturer,~~

1 provided the purchaser is advised prior to finalizing the purchase
2 of the vehicle of the annual cost of the insurance included in
3 connection with the sale or lease; nor does it apply to any title
4 insurance or life or disability insurance written in connection with
5 an indebtedness that is intended to pay the balance of the
6 indebtedness in the event of the death or disability of the person
7 insured; nor does it apply to any of the provisions of Part 5
8 (commencing at Section 12140), Division 2 of this code; nor does
9 it apply to insurance provided incidentally to the sale of services
10 if the cost of the insurance to the seller of the services does not
11 exceed the sum of one dollar (\$1) per annum for each purchaser
12 of those services.

O