

AMENDED IN ASSEMBLY APRIL 30, 2015

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 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. 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 bill would also make nonsubstantive changes to these provisions.*

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.

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

1 (2) Notwithstanding paragraph (1), a party may inform the  
2 Secretary of State that it declines to have the votes cast for any  
3 candidate who has disclosed that party as his or her party preference  
4 on the ballot counted toward the 2-percent qualification threshold.  
5 If the party wishes to have votes for any candidate not counted in  
6 support of its qualification under paragraph (1), the party shall  
7 notify the ~~secretary~~ *Secretary of State* in writing of that candidate's  
8 name by the seventh day ~~prior to~~ *before* the gubernatorial primary  
9 election.

10 (b) On or before the 135th day before a primary election, it  
11 appears to the Secretary of State, as a result of examining and  
12 totaling the statement of voters and their declared political  
13 preference transmitted to him or her by the county elections  
14 officials, that voters equal in number to at least 0.33 percent of the  
15 total number of voters registered on the 154th day before the  
16 primary election have declared their preference for that party.

17 (c) On or before the 135th day before a primary election, there  
18 is filed with the Secretary of State a political party qualification  
19 petition signed by voters, equal in number to at least 10 percent  
20 of the entire vote of the state at the last preceding gubernatorial  
21 election, declaring that the voters signing the petition support  
22 qualification of a proposed party, the name of which shall be stated  
23 in the petition, which proposed party those voters desire to have  
24 participate in that primary election. ~~This~~ *The* petition shall be  
25 circulated, signed, and verified, and the signatures of the voters  
26 on it shall be certified to and transmitted to the Secretary of State  
27 by the county elections officials substantially as provided for  
28 initiative petitions. Each page of the petition shall bear a caption  
29 in 18-point boldface type, which caption shall be the name of the  
30 proposed party followed by the words "Petition to participate in  
31 the primary election."

32 SEC. 3. Section 5151 of the Elections Code is amended to read:  
33 5151. A party is qualified to participate in a presidential general  
34 election under any of the following conditions:

35 (a) The party qualified to participate and participated in the  
36 presidential primary election preceding the presidential general  
37 election pursuant to Section 5100.

38 (b) (1) At the last preceding gubernatorial primary election, the  
39 sum of the votes cast for all of the candidates for an office voted  
40 on throughout the state who disclosed a preference for that party

1 on the ballot was at least 2 percent of the entire vote of the state  
 2 for that office.

3 (2) Notwithstanding paragraph (1), a party may inform the  
 4 Secretary of State that it declines to have the votes cast for any  
 5 candidate who has disclosed that party as his or her party preference  
 6 on the ballot counted toward the 2-percent qualification threshold.  
 7 If the party wishes to have votes for any candidate not counted in  
 8 support of its qualification under paragraph (1), the party shall  
 9 notify the ~~secretary~~ *Secretary of State* in writing of that candidate's  
 10 name by the seventh day ~~prior to~~ *before* the gubernatorial primary  
 11 election.

12 (c) If, on or before the 102nd day before a presidential general  
 13 election, it appears to the Secretary of State, as a result of  
 14 examining and totaling the statement of voters and their declared  
 15 political preference transmitted to him or her by the county  
 16 elections officials, that voters equal in number to at least 0.33  
 17 percent of the total number of voters registered on the 123rd day  
 18 before the presidential general election have declared their  
 19 preference for that party.

20 (d) On or before the 135th day before a presidential general  
 21 election, there is filed with the Secretary of State a political party  
 22 qualification petition signed by voters, equal in number to at least  
 23 10 percent of the entire vote of the state at the last preceding  
 24 gubernatorial election, declaring that the voters signing the petition  
 25 support qualification of a proposed party, the name of which shall  
 26 be stated in the petition, which proposed party those voters desire  
 27 to have participate in that presidential general election. ~~This~~ *The*  
 28 petition shall be circulated, signed, and verified, and the signatures  
 29 of the voters on it shall be certified to and transmitted to the  
 30 Secretary of State by the county elections officials substantially  
 31 as provided for initiative petitions. Each page of the petition shall  
 32 bear a caption in 18-point boldface type, which caption shall be  
 33 the name of the proposed party followed by the words "Petition  
 34 to participate in the presidential general election."

35 SEC. 4. Section 18201 of the Elections Code is amended to  
 36 read:

37 18201. ~~Any~~ *A* person who falsely makes or fraudulently defaces  
 38 or destroys all or any part of a nomination paper or an  
 39 in-lieu-filing-fee ~~petition~~, *petition* is punishable by a fine not  
 40 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. 5. Section 18202 of the Elections Code is amended to  
5 read:

6 18202. ~~Every~~A person *who*, acting on behalf of a candidate ~~is~~  
7 ~~guilty of a misdemeanor who~~, deliberately fails to file at the proper  
8 time and in the proper place ~~any~~ a nomination paper,  
9 in-lieu-filing-fee petition, or declaration of candidacy in his or her  
10 possession that is entitled to be filed under this ~~code~~. *code is guilty*  
11 *of a misdemeanor*.

12 SEC. 6. Section 18203 of the Elections Code is amended to  
13 read:

14 18203. ~~Any~~A person who files or submits for filing a  
15 nomination paper, in-lieu-filing-fee petition, or declaration of  
16 candidacy knowing that it or any part of it has been made falsely  
17 is punishable by a fine not exceeding one thousand dollars (\$1,000),  
18 or by imprisonment pursuant to subdivision (h) of Section 1170  
19 of the Penal Code for 16 months or two or three years, or by both  
20 that fine and imprisonment.

21 SEC. 7. Section 18204 of the Elections Code is amended to  
22 read:

23 18204. ~~Any~~A person who willfully suppresses all or any part  
24 of a nomination paper, in-lieu-filing-fee petition, or declaration of  
25 candidacy either before or after filing is punishable by a fine not  
26 exceeding one thousand dollars (\$1,000), or by imprisonment  
27 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
28 16 months or two or three years, or by both that fine and  
29 imprisonment.

30 SEC. 8. Section 18600 of the Elections Code is amended to  
31 read:

32 18600. ~~Every~~A person is guilty of a misdemeanor who:

33 (a) Circulating, as principal or agent, or having charge or control  
34 of the circulation of, or obtaining signatures to, any state or local  
35 initiative, referendum, recall, or political party qualification  
36 petition, intentionally misrepresents or intentionally makes any  
37 false statement concerning the contents, purport, or effect of the  
38 petition to any person who signs, or who desires to sign, or who  
39 is requested to sign, or who makes inquiries with reference to it,  
40 or to whom it is presented for his or her signature.

1 (b) Willfully and knowingly circulates, publishes, or exhibits  
 2 any false statement or misrepresentation concerning the contents,  
 3 purport, or effect of any state or local initiative, referendum, recall,  
 4 or political party qualification petition for the purpose of obtaining  
 5 any signature to, or persuading or influencing any person to sign,  
 6 that petition.

7 (c) 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, or political party qualification petition intentionally  
 10 makes any false statement in response to any inquiry by any voter  
 11 as to whether he or she is a paid signature gatherer or a volunteer.

12 SEC. 9. Section 18601 of the Elections Code is amended to  
 13 read:

14 18601. ~~Any~~(a) A person working for the proponent or  
 15 proponents of an initiative or referendum measure, recall petition,  
 16 or political party qualification petition who refuses to allow a  
 17 prospective signer to read the measure or petition is guilty of a  
 18 misdemeanor.

19 ~~An~~

20 (b) An arrest or conviction pursuant to this section shall not  
 21 invalidate or otherwise affect the validity of any signature obtained  
 22 by the person arrested or convicted.

23 SEC. 10. Section 18603 of the Elections Code is amended to  
 24 read:

25 18603. ~~Every~~A person who offers or gives money or other  
 26 valuable consideration to another in exchange for his or her  
 27 signature on a state, county, municipal, or district initiative,  
 28 referendum, recall, or political party qualification petition is guilty  
 29 of a misdemeanor.

30 SEC. 11. Section 18604 of the Elections Code is amended to  
 31 read:

32 18604. Upon conviction of a violation of any provision of this  
 33 article, Article 2 (commencing with Section 18610), Article 3  
 34 (commencing with Section 18620), Article 5 (commencing with  
 35 Section 18640), Article 6 (commencing with Section 18650), or  
 36 Article 7 (commencing with Section 18660), the court may order  
 37 as a condition of probation that the convicted person be prohibited  
 38 from receiving money or other valuable consideration for gathering  
 39 signatures on an initiative, referendum, recall, or political party  
 40 qualification petition.

1 SEC. 12. Section 18610 of the Elections Code is amended to  
2 read:

3 18610. ~~Every~~A person who solicits ~~any~~ a circulator to affix  
4 ~~to any~~ a false or forged signature, or to cause or permit a false or  
5 ~~forged signature to be affixed, to an~~ initiative, referendum, recall,  
6 or political party qualification petition ~~any false or forged signature,~~  
7 ~~or to cause or permit a false or forged signature to be affixed,~~ is  
8 guilty of a misdemeanor.

9 SEC. 13. Section 18611 of the Elections Code is amended to  
10 read:

11 18611. ~~Every~~A person who circulates or causes to be  
12 ~~circulated an initiative, referendum, recall, or political party~~  
13 ~~qualification petition knowing it to contain false, forged, or~~  
14 ~~ficitious names~~ is punishable by a fine not exceeding five thousand  
15 dollars (\$5,000), or by imprisonment pursuant to subdivision (h)  
16 of Section 1170 of the Penal Code for 16 months or two or three  
17 years, or in a county jail not exceeding one year, or by both that  
18 fine and imprisonment, ~~who circulates or causes to be circulated~~  
19 ~~any initiative, referendum, recall, or political party qualification~~  
20 ~~petition, knowing it to contain false, forged, or fictitious names.~~  
21 ~~imprisonment.~~

22 SEC. 14. Section 18612 of the Elections Code is amended to  
23 read:

24 18612. ~~Every~~A person ~~is guilty of a misdemeanor~~ who  
25 knowingly signs his or her own name more than once to ~~any~~ an  
26 initiative, referendum, recall, or political party qualification  
27 petition, or signs his or her name to that petition knowing ~~himself~~  
28 ~~or herself~~ at the time of signing ~~that he or she is not to be~~ qualified  
29 to sign it: *it, is guilty of a misdemeanor.*

30 SEC. 15. Section 18613 of the Elections Code is amended to  
31 read:

32 18613. ~~Every~~A person who subscribes to ~~any~~ an initiative,  
33 referendum, recall, or political party qualification petition a  
34 fictitious name, or who subscribes ~~thereto to the petition~~ the name  
35 of another, or who causes another to subscribe such a name to that  
36 petition, is guilty of a felony and is punishable by imprisonment  
37 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
38 two, three, or four years.

39 SEC. 16. Section 18614 of the Elections Code is amended to  
40 read:

1 18614. ~~Every~~A person who files in the office of the elections  
 2 official or other officer designated by law to receive the filing, an  
 3 initiative, referendum, recall, or political party qualification  
 4 petition to which is attached, appended, or subscribed any  
 5 signature that the person filing the petition or measure knows to  
 6 be false or fraudulent, or not the genuine signature of the person  
 7 whose name it purports to be, is punishable by a fine not exceeding  
 8 five thousand dollars (\$5,000), or by imprisonment pursuant to  
 9 subdivision (h) of Section 1170 of the Penal Code for 16 months  
 10 or two or three years, or in a county jail not exceeding one year,  
 11 or by both that fine and imprisonment, who files in the office of  
 12 the elections official or other officer designated by law to receive  
 13 the filing, any initiative, referendum, recall, or political party  
 14 qualification petition to which is attached, appended, or subscribed  
 15 any signature which the person filing the petition or measure knows  
 16 to be false or fraudulent or not the genuine signature of the person  
 17 whose name it purports to be: *imprisonment.*

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

20 18620. ~~Every~~A person who seeks, solicits, bargains for, or  
 21 obtains any money, thing of value, or advantage of or from any  
 22 person, firm, or corporation for the purpose or represented purpose  
 23 of fraudulently inducing, persuading, or seeking the proponent or  
 24 proponents of ~~any~~ an initiative or referendum measure, recall  
 25 petition, or political party qualification petition to (a) abandon the  
 26 measure or petition, (b) fail, neglect, or refuse to file in the office  
 27 of the elections official or other officer designated by law, within  
 28 the time required by law, the initiative or referendum measure,  
 29 recall petition, or political party qualification petition after securing  
 30 the number of signatures required to qualify the measure or  
 31 petition, (c) stop the circulation of the initiative or referendum  
 32 measure, recall petition, or political party qualification petition,  
 33 or (d) perform any act that will prevent or aid in preventing the  
 34 initiative or referendum measure, recall petition, or political party  
 35 qualification petition from qualifying as an initiative or referendum  
 36 measure, or the recall petition from resulting in a recall election,  
 37 or political party qualification petition from qualifying a party is  
 38 punishable by a fine not exceeding five thousand dollars (\$5,000),  
 39 or by imprisonment pursuant to subdivision (h) of Section 1170  
 40 of the Penal Code for 16 months or two or three years, or in a

1 county jail not exceeding one year, or by both that fine and  
2 imprisonment.

3 SEC. 18. Section 18621 of the Elections Code is amended to  
4 read:

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

25 SEC. 19. Section 18622 of the Elections Code is amended to  
26 read:

27 18622. ~~Every~~A person who offers to buy or does buy from a  
28 circulator any referendum, initiative, recall, or political party  
29 qualification petition on which one or more persons have affixed  
30 their signatures is guilty of a misdemeanor punishable by  
31 imprisonment in the county jail ~~for not more than~~ *not exceeding*  
32 *one year, or by a fine not exceeding one thousand dollars (\$1,000),*  
33 ~~or both.~~ *by both that fine and imprisonment. This section is not*  
34 ~~intended to~~ *does not prohibit compensation of a circulator, a*  
35 *proponent of the petition, or his or her agent, from compensating*  
36 *a circulator for his or her services, by a proponent of the petition*  
37 ~~or his or her agent.~~ *services.*

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

1 18630. ~~Every~~A person who threatens to commit an assault or  
2 battery on a person circulating a referendum, initiative, recall, or  
3 political party qualification petition, or on a relative of a person  
4 circulating a referendum, initiative, recall, or political party  
5 qualification petition, or to inflict damage on the property of the  
6 circulator or the ~~relative~~, *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~~A person who forcibly or by stealth takes from  
12 the possession of a circulator ~~any~~ *an* initiative, referendum, recall,  
13 or 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~~A person working for the proponent or proponents  
18 of an initiative or referendum measure, or a recall or political party  
19 qualification petition, who solicits signatures to qualify the measure  
20 or petition ~~and~~, accepts ~~any~~ payment therefor, and ~~who~~ fails to  
21 surrender the measure or petition to the proponents ~~thereof~~ *of the*  
22 *measure or petition* for filing is punishable by a fine not exceeding  
23 five 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~~A *person* shall *not* knowingly or willfully permit  
30 the list of signatures on an initiative, referendum, recall, or 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 or political party, except as provided in  
34 Section 6253.5 of the Government Code. Violation of this section  
35 is a misdemeanor.

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

38 18660. ~~Every~~A *person who makes a false affidavit concerning*  
39 *an initiative, referendum, recall, or political party qualification*  
40 *petition, or the signatures appended to the petition*, is punishable

1 by a fine not exceeding five thousand dollars (\$5,000), or by  
2 imprisonment pursuant to subdivision (h) of Section 1170 of the  
3 Penal Code for 16 months or two or three years, or in a county jail  
4 not exceeding one year, or by both that fine and imprisonment,  
5 ~~who makes any false affidavit concerning any initiative,~~  
6 ~~referendum, recall, or political party qualification petition or the~~  
7 ~~signatures appended thereto.~~ *imprisonment.*

8 SEC. 25. Section 18661 of the Elections Code is amended to  
9 read:

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

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