

**ASSEMBLY BILL**

**No. 1626**

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**Introduced by Assembly Member Yamada**

February 9, 2012

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An act to amend Sections 9380 and 9509 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, as introduced, Yamada. Election materials: public examination: writ of mandate: elections official.

Existing law requires the elections official administering a county, municipal, district, or school district election to make a copy of certain election materials available for public examination in his or her office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. It permits any voter of the jurisdiction in which the election is being held, during that 10-calendar-day public examination period, to seek a writ of mandate or an injunction requiring the amendment or deletion of any or all of the materials. In the case of county and municipal elections, existing law also permits the elections official, himself or herself, to seek the above-described writ of mandate or injunction, as specified.

This bill would also authorize the elections official to seek the above-described writ of mandate or injunction in the context of a district or school district election.

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

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

1 SECTION 1. Section 9380 of the Elections Code is amended  
2 to read:

3 9380. (a) The elections official shall make a copy of the  
4 materials referred to in Sections 9312, 9315, and 9317 available  
5 for public examination in his or her office for a period of 10  
6 calendar days immediately following the filing deadline for  
7 submission of those documents. Any person may obtain a copy of  
8 the materials from the elections official for use outside of the  
9 elections official's office. The elections official may charge a fee  
10 to any person obtaining a copy of the material. The fee may not  
11 exceed the actual cost incurred by the elections official in providing  
12 the copy.

13 (b) (1) During the 10-calendar-day public examination period  
14 provided by this section, any voter of the jurisdiction in which the  
15 election is being held, *or the elections official, himself or herself,*  
16 may seek a writ of mandate or an injunction requiring any material  
17 to be amended or deleted. The writ of mandate or injunction request  
18 shall be filed no later than the end of the 10-calendar-day public  
19 examination period.

20 (2) A peremptory writ of mandate or an injunction shall be  
21 issued only upon clear and convincing proof that the material in  
22 question is false, misleading, or inconsistent with this chapter, and  
23 that issuance of the writ or injunction will not substantially interfere  
24 with the printing or distribution of official election materials as  
25 provided by law.

26 (3) The elections official shall be named as respondent and the  
27 person or official who authored the material in question shall be  
28 named as real parties in interest. *In the case of the elections official*  
29 *bringing the mandamus or injunctive action, the board of*  
30 *supervisors of the county shall be named as the respondent and*  
31 *the person or official who authored the material in question shall*  
32 *be named as the real party in interest.*

33 SEC. 2. Section 9509 of the Elections Code is amended to read:

34 9509. (a) The elections official shall make a copy of the  
35 materials referred to in Sections 9500, 9501, and 9504 available  
36 for public examination in his or her office for a period of 10  
37 calendar days immediately following the filing deadline for  
38 submission of those documents. Any person may obtain a copy of

1 the materials from the elections official for use outside of the  
2 elections official's office. The elections official may charge a fee  
3 to any person obtaining a copy of the material. The fee may not  
4 exceed the actual cost incurred by the elections official in providing  
5 the copy.

6 (b) (1) During the 10-calendar-day public examination period  
7 provided by this section, any voter of the jurisdiction in which the  
8 election is being held, *or the elections official, himself or herself,*  
9 may seek a writ of mandate or an injunction requiring any or all  
10 of the materials to be amended or deleted. The writ of mandate or  
11 injunction request shall be filed no later than the end of the  
12 10-calendar-day public examination period.

13 (2) A peremptory writ of mandate or an injunction shall be  
14 issued only upon clear and convincing proof that the material in  
15 question is false, misleading, or inconsistent with this chapter, and  
16 that issuance of the writ or injunction will not substantially interfere  
17 with the printing or distribution of official election materials as  
18 provided by law.

19 (3) The elections official shall be named as respondent and the  
20 person or official who authored the material in question shall be  
21 named as real parties in interest. *In the case of the elections official*  
22 *bringing the mandamus or injunctive action, the board of*  
23 *supervisors of the county shall be named as the respondent and*  
24 *the person or official who authored the material in question shall*  
25 *be named as the real party in interest.*