

Assembly Bill No. 1419

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

Passed the Senate August 26, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 338, 2187, 5001, 5002, 5004, 5005, 5200, and 8001 of, and to add Chapter 2.5 (commencing with Section 5150) to Division 5 of, the Elections Code, and to amend Section 85205 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1419, Committee on Elections and Redistricting. Presidential general elections: party qualifications.

Existing law establishes qualifications that a new political party must satisfy in order to participate in a primary election. Existing law provides that a new party qualifies to participate in a primary election if, on or before the 135th day before the primary election, it appears to the Secretary of State, after examining the statement of voters transmitted by county elections officials, that at least 1% of the entire vote of the state at the preceding gubernatorial election has declared an intention to affiliate with the party or if a petition to participate in the primary election is filed with the Secretary of State, signed by voters numbering at least 10% of the entire vote of the state at the preceding gubernatorial election declaring that they represent the proposed party and desire to participate in the primary election.

Under existing law, a political party must participate in the primary election in order for a candidate for partisan office to have his or her name appear on the general election ballot with that party's designation.

This bill would establish requirements for a political body that did not qualify to participate in a presidential primary election but nevertheless seeks to participate in the presidential general election following that primary election, including having candidates for President and Vice President of the United States nominated by the party appear on the presidential general election ballot. The bill would provide that a new party is qualified to participate in a presidential general election if it is able to satisfy the above-mentioned voter registration or petition signature requirements on or before the 102nd day or the 135th day, as specified, preceding the general election.

Existing law requires each county elections official to send the Secretary of State, at prescribed times, a summary of the statement of the number of voters in the county, including the number registered as affiliated with each qualified or nonqualified party.

This bill would require each county elections official to send the Secretary of State an additional summary statement of the voters in the county not less than 102 days prior to the presidential general election, with respect to voters registered before the 123rd day before the presidential general election. By imposing new duties or a higher level of service on county elections officials, this bill would impose a state-mandated local program.

The bill would also make conforming changes.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. It is the intent of the Legislature in enacting this act to comply with the holding of the United States District Court for the Central District of California in *California Justice Committee v. Bowen* (C.D. Cal. Oct. 18, 2012) No. CV 12-3956 PA (AGR_x), by requiring county elections officials to send to the Secretary of State an additional summary statement of the voters in the county in order to allow the Secretary of State to determine which political parties are qualified to participate in each presidential general election.

SEC. 2. Section 338 of the Elections Code is amended to read:

338. "Party" means a political party or organization that has qualified for participation in any primary or presidential general election.

SEC. 3. Section 2187 of the Elections Code is amended to read:

2187. (a) Each county elections official shall send to the Secretary of State, in a format described by the Secretary of State, a summary statement of the number of voters in the county. The

statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly district, Senate district, and congressional district located in whole or in part within the county.

(b) The Secretary of State, on the basis of the statements sent by the county elections officials and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly district, Senate district, and congressional district in the state. A copy of this list shall be made available, upon request, to any elector in this state.

(c) Each county that uses data-processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the electronic data file with the information requested by the Secretary of State. Each county that does not use data-processing storage shall send to the Secretary of State one copy of the index setting forth that information.

(d) The summary statements and the electronic data file copy or the index shall be sent at the following times:

(1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.

(2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.

(3) Not less than seven days prior to the primary election, with respect to voters registered before the 14th day prior to the primary election.

(4) Not less than 102 days prior to each presidential general election, with respect to voters registered before the 123rd day before the presidential general election.

(5) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election.

(6) Not less than seven days prior to the general election, with respect to voters registered before the 14th day prior to the general election.

(7) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.

(e) The Secretary of State may adopt regulations prescribing the content and format of the electronic data file or index referred to in subdivision (c) and containing the registered voter information from the affidavits of registration.

(f) The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

(g) The Secretary of State shall make the information from the electronic data files or the printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly or political research, or governmental purposes as determined by the Secretary of State.

(h) For purposes of this section, “electronic data file” means either a magnetic tape or a data file in an alternative electronic format, at the discretion of the county elections official.

SEC. 4. Section 5001 of the Elections Code is amended to read:

5001. Whenever a group of electors desires to qualify a new political party meeting the requirements of Section 5100 or 5151, that group shall form a political body by:

(a) Holding a caucus or convention at which temporary officers shall be elected and a party name designated. The designated name shall not be so similar to the name of an existing party so as to mislead the voters, and shall not conflict with that of any existing party or political body that has previously filed notice pursuant to subdivision (b).

(b) Filing formal notice with the Secretary of State that the political body has organized, elected temporary officers, and declared an intent to qualify a political party pursuant to either Section 5100 or Section 5151, but not both. The notice shall include the names and addresses of the temporary officers of the political body.

SEC. 5. Section 5002 of the Elections Code is amended to read:

5002. Upon receipt of the notice specified in Section 5001, the Secretary of State shall notify each county elections official of the name of the political body, its intent to qualify as a political party,

and whether it intends to qualify for the next primary election or for the next presidential general election.

In preparing the statement of voters and their political affiliations, the county elections officials shall tabulate by political affiliation the affidavits of registration of members of political parties qualified pursuant to Section 5100 or 5151, and political bodies formally declaring an intent to qualify as political parties pursuant to Section 5001. All other affidavits of registration, except those of persons declining to state a political affiliation, shall be tabulated as miscellaneous registrations.

SEC. 6. Section 5004 of the Elections Code is amended to read:

5004. (a) If by the 135th day before any primary election, a political body filing notice of its intent to qualify for a primary election pursuant to Section 5001 has not qualified as a political party pursuant to Section 5100, the political body shall be considered to have abandoned its attempt to qualify as a political party and shall be ineligible to participate in the following primary election.

(b) If by the 102nd day before a presidential general election, a political body filing notice of its intent to qualify for a presidential general election pursuant to Section 5001 has not qualified as a political party pursuant to Section 5151, the political body shall be considered to have abandoned its attempt to qualify as a political party and shall be ineligible to participate in the following presidential general election.

SEC. 7. Section 5005 of the Elections Code is amended to read:

5005. (a) Until otherwise provided for by statute, a political party newly qualified pursuant to Section 5100 shall carry on its activities in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party. The temporary officers of the newly qualified political party elected pursuant to Section 5001 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

(b) Until otherwise provided for by statute, a political party newly qualified pursuant to Section 5151 shall carry on its activities in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party,

except that the newly qualified party shall not be required to use a primary election to nominate candidates for the offices of President and Vice President of the United States prior to the presidential general election at which the party qualifies to participate, whose names shall appear on the presidential general election ballot. The temporary officers of the newly qualified political party elected pursuant to Section 5001 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

SEC. 8. Chapter 2.5 (commencing with Section 5150) is added to Division 5 of the Elections Code, to read:

CHAPTER 2.5. PARTIES QUALIFIED TO PARTICIPATE IN THE
PRESIDENTIAL GENERAL ELECTION

5150. This chapter applies to a political body that did not qualify to participate in a presidential primary election pursuant to Section 5100 but nevertheless seeks qualification to participate in the following presidential general election through the nomination of candidates for President and Vice President of the United States by nominating convention, or some means other than a primary election, to appear on the ballot at the presidential general election. For purposes of this chapter, participating in a presidential general election does not include using the general election ballot for the purpose of electing state party or county central committee officers.

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

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

(b) If at the last preceding gubernatorial election there was polled for any one of its candidates for any office voted on throughout the state at least 2 percent of the entire vote of the state.

(c) If on or before the 102nd day before a presidential general election, it appears to the Secretary of State, as a result of examining and totaling the statement of voters and their political affiliations transmitted to him or her by the county elections officials, that voters equal in number to at least 1 percent of the

entire vote of the state at the last preceding gubernatorial election have declared their intention to affiliate with that party.

(d) If on or before the 135th day before a presidential general election, there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that presidential general election. This petition shall be circulated, signed, and verified and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county elections officials substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point boldface type, which caption shall be the name of the proposed party followed by the words “Petition to participate in the presidential general election.”

5152. (a) Upon the occurrence of the gubernatorial election, each party shall have its qualifications reviewed by the Secretary of State. A party that does not meet the standards for qualification set forth in Section 5151 shall be prohibited from participating in the presidential general election. A party shall maintain its qualification to participate in any subsequent presidential general election by complying with any of the conditions specified in Section 5151.

(b) A party seeking qualification under provisions of this section and subdivision (c) or (d) of Section 5151 shall file formal notice with the Secretary of State that the party intends to regain qualification.

(c) Unless formal notice as required in subdivision (b) is timely received by the Secretary of State, he or she may have the name of the party omitted from any list, notice, ballot, or other publication containing the names of the parties qualified or seeking qualification that the Secretary of State may cause to be printed or published.

(d) For purposes of subdivision (b) of Section 8001, this section shall only be applicable to a party that has successfully obtained that status for the first time after having been a political body, and shall not apply to a political party that has been disqualified.

5153. Whenever the registration of any party that qualified in the previous general election falls below one-fifteenth of 1 percent

of the total state registration, that party shall not be qualified to participate in a presidential general election but shall be deemed to have been abandoned by the voters. The Secretary of State shall immediately remove the name of the party from any list, notice, ballot, or other publication containing the names of the parties qualified to participate in a presidential general election.

5154. No party shall be recognized or qualified to participate in a presidential general election that either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets the overthrow by any unlawful means of, or that directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition or treason against, the government of the United States or of this state.

SEC. 9. Section 5200 of the Elections Code is amended to read:

5200. (a) Not less than 123 days before a primary or presidential general election, the Secretary of State shall, with the advice and consent of the Attorney General, determine which parties are disqualified to participate in any primary election under Section 5102 or a presidential general election under Section 5154. If it is proposed to disqualify a party that was qualified to participate in the next preceding direct primary, notice of intention to disqualify shall be served by registered mail on the chairperson of the state central committee of the party, as shown by the records of the Secretary of State. In any event, notice of intention to disqualify shall be given in each county of the state by publication pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation printed and published in any county, publication shall be made in a newspaper of general circulation printed and published in an adjoining county.

(b) If the party desires a hearing on the notice of intention to disqualify, it shall, within 10 days after service by mail or within 10 days after the last date upon which the notice was published in any county, whichever is later, file an affidavit in the Supreme Court pursuant to Section 13314 setting forth facts showing that the political party is not disqualified to participate in any primary election under Section 5102 or a presidential general election under Section 5154. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. Before the affidavit is filed, a copy shall be personally served on the Secretary of State. When filed, the matter

shall be set for return in not more than 10 days and shall have priority over any other pending cases.

(c) In connection with proceedings in the Supreme Court under this section, the Legislature hereby declares its intent to create a speedy and expeditious method for judicial determination of the vital questions involved, and urges the Supreme Court to accept jurisdiction in any such proceeding. The Legislature further urges that the court instruct any referee before whom the taking of evidence is ordered to report back to the court in sufficient time so that the court's final order may be made effective on or before the 80th day before the primary or presidential general election.

SEC. 10. Section 8001 of the Elections Code is amended to read:

8001. (a) No declaration of candidacy for a partisan office or for membership on a county central committee shall be filed by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he or she has been eligible to register to vote in the state, the candidate is shown by his or her affidavit of registration to be affiliated with the political party the nomination of which he or she seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he or she seeks within 12 months, or, in the case of an election governed by Chapter 1 (commencing with Section 10700) of Part 6 of Division 10, within three months immediately prior to the filing of the declaration.

(b) The elections official shall attach a certificate to the declaration of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he or she seeks, and indicating that the candidate has not been affiliated with any other qualified political party for the period specified in subdivision (a) immediately preceding the filing of the declaration. This section does not apply to a declaration of candidacy filed by a candidate of a political party participating in its first direct primary election subsequent to its qualification as a political party pursuant to Section 5100 or by a candidate of a political party participating in its first presidential general election subsequent to its qualification as a political party pursuant to Section 5151.

(c) Notwithstanding subdivision (a), a county central committee, subject to the bylaws of the state central committee, may establish the length of time that a candidate for membership on that committee must be shown by his or her affidavit of registration to be affiliated with the political party of that committee, and may establish the length of time that a candidate for membership on that committee must not have been registered as affiliated with a qualified political party other than the political party of that committee.

SEC. 11. Section 85205 of the Government Code is amended to read:

85205. “Political party committee” means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 or 5151 of the Elections Code.

SEC. 12. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2013

Governor