

AMENDED IN SENATE APRIL 1, 2013
AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 148

Introduced by Senator Anderson

January 31, 2013

An act to amend Sections 359.5, 8141.5, 8142, 8150, 9083.5, and 15452 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 148, as amended, Anderson. Primary elections: voter-nominated offices.

Existing provisions of the California Constitution provide that all voters may vote for any candidate at a voter-nominated primary election for congressional and state elective offices, without regard to the political party preference of the candidate or the voter. Pursuant to these provisions, the top 2 vote-getters in a voter-nominated primary election, regardless of party preference, compete in the ensuing general election.

Existing law provides generally for the conduct of primary elections. Existing statutory law implements the above-mentioned constitutional provisions relating to voter-nominated primary elections for congressional and state elective offices, including the provision that the top 2 vote-getters compete in the general election, regardless of party preference.

This bill would provide that a candidate for State Senator or Member of the Assembly who receives at least a majority of the votes cast for that office in the primary election shall be declared elected to that office, and that no general election would be held for that office. The bill would also make conforming changes.

This bill would specify that its provisions become operative only if SCA 14 of the 2013–14 Regular Session is approved by the voters.

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

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

1 SECTION 1. Section 359.5 of the Elections Code is amended
2 to read:

3 359.5. (a) “Voter-nominated office” means a congressional
4 or state elective office for which a candidate may choose to have
5 his or her party preference or lack of party preference indicated
6 upon the ballot. A political party or party central committee shall
7 not nominate a candidate at a state-conducted primary election for
8 a voter-nominated office. The primary election conducted for a
9 voter-nominated office does not serve to determine the nominees
10 of a political party but serves to winnow the candidates for the
11 general election to the candidates receiving the highest or second
12 highest number of votes cast at the primary election, except that,
13 if a candidate for State Senator or Member of the Assembly
14 receives at least a majority of the votes cast for that office at the
15 primary election, that candidate shall be declared the elected
16 candidate for that office. The following offices are voter-nominated
17 offices:

- 18 (1) Governor.
- 19 (2) Lieutenant Governor.
- 20 (3) Secretary of State.
- 21 (4) Controller.
- 22 (5) Treasurer.
- 23 (6) Attorney General.
- 24 (7) Insurance Commissioner.
- 25 (8) Member of the State Board of Equalization.
- 26 (9) United States Senator.
- 27 (10) Member of the United States House of Representatives.
- 28 (11) State Senator.
- 29 (12) Member of the Assembly.

30 (b) This section does not prohibit a political party or party
31 central committee from endorsing, supporting, or opposing a
32 candidate for an office listed in subdivision (a).

1 SEC. 2. Section 8141.5 of the Elections Code is amended to
2 read:

3 8141.5. (a) Except as provided in subdivision (b) of this
4 section and in subdivision (b) of Section 8142, only the candidates
5 for a voter-nominated office who receive the highest or second
6 highest number of votes cast at the primary election shall appear
7 on the ballot as candidates for that office at the ensuing general
8 election. More than one candidate with the same party preference
9 designation may participate in the general election pursuant to this
10 subdivision. Notwithstanding the designation made by the
11 candidate pursuant to Section 8002.5, no candidate for a
12 voter-nominated office shall be deemed to be the official nominee
13 for that office of any political party, and no party is entitled to have
14 a candidate with its party preference designation participate in the
15 general election unless that candidate is one of the candidates
16 receiving the highest or second highest number of votes cast at the
17 primary election.

18 (b) If a candidate for State Senator or Member of the Assembly
19 receives at least a majority of all votes cast for that office at the
20 primary election, he or she shall be declared elected, and no general
21 election shall be held for that office. The term of office for a
22 candidate declared elected pursuant to this subdivision shall
23 commence at the time that the term of office would have
24 commenced if the candidate had been elected at the general
25 election.

26 SEC. 3. Section 8142 of the Elections Code is amended to read:

27 8142. (a) In the case of a tie vote, nonpartisan candidates
28 receiving the same number of votes shall be candidates at the
29 ensuing general election if they qualify pursuant to Section 8141
30 whether or not there are more candidates at the general election
31 than prescribed by this article. In no case shall the tie be determined
32 by lot.

33 (b) In the case of a tie vote among candidates at a primary
34 election for a voter-nominated office, the following applies:

35 (1) All candidates receiving the highest number of votes cast
36 for any candidate shall be candidates at the ensuing general election
37 whether or not there are more candidates at the general election
38 than prescribed by this article.

39 (2) Notwithstanding Section 8141.5, if a tie vote among
40 candidates results in more than one primary candidate qualifying

1 for the general election pursuant to subdivision (a), candidates
 2 receiving fewer votes shall not be candidates at the general election,
 3 even if they receive the second highest number of votes cast.

4 (3) If only one candidate receives the highest number of votes
 5 cast but there is a tie vote among two or more candidates receiving
 6 the second highest number of votes cast, each of those second-place
 7 candidates shall be a candidate at the ensuing general election
 8 along with the candidate receiving the highest number of votes
 9 cast, regardless of whether there are more candidates at the general
 10 election than prescribed by this article. This paragraph shall not
 11 apply to a primary election for the office of a State Senator or
 12 Member of the Assembly if the candidate who receives the highest
 13 number of votes cast for that office is declared elected pursuant
 14 to subdivision (b) of Section 8141.5.

15 (4) In no case shall the tie be determined by lot.

16 SEC. 4. Section 8150 of the Elections Code is amended to read:

17 8150. The certificate of the Secretary of State showing
 18 candidates nominated or selected at a primary election, or declared
 19 elected pursuant to subdivision (b) of Section 8141.5, and justices
 20 of the Supreme Court and courts of appeal to appear on the general
 21 elections ballot, shall be in a form prescribed by the Secretary of
 22 State.

23 SEC. 5. Section 9083.5 of the Elections Code is amended to
 24 read:

25 9083.5. (a) If a candidate for nomination or election to a
 26 partisan office will appear on the ballot, the Secretary of State shall
 27 include in the state ballot pamphlet a written explanation of the
 28 election procedure for such offices. The explanation shall read
 29 substantially similar to the following:
 30

31 **PARTY-NOMINATED/PARTISAN OFFICES**

32 Under the California Constitution, political parties may formally
 33 nominate candidates for party-nominated/partisan offices at the
 34 primary election. A candidate so nominated will then represent
 35 that party as its official candidate for the office in question at the
 36 ensuing general election and the ballot will reflect an official
 37 designation to that effect. The top vote-getter for each party at the
 38 primary election is entitled to participate in the general election.
 39 Parties also elect officers of official party committees at a partisan
 40 primary.

1 No voter may vote in the primary election of any political party
2 other than the party he or she has disclosed a preference for upon
3 registering to vote. However, a political party may authorize a
4 person who has declined to disclose a party preference to vote in
5 that party's primary election.
6

7 (b) If a candidate for nomination or election to a voter-nominated
8 office will appear on the ballot, the Secretary of State shall include
9 in the state ballot pamphlet a written explanation of the election
10 procedure for such offices. The explanation shall read substantially
11 similar to the following:
12

13 **VOTER-NOMINATED OFFICES**

14 Under the California Constitution, political parties are not entitled
15 to formally nominate candidates for voter-nominated offices at the
16 primary election. A candidate nominated for a voter-nominated
17 office at the primary election is the nominee of the people and not
18 the official nominee of any party at the following general election.
19 A candidate for nomination or election to a voter-nominated office
20 shall have his or her party preference, or lack of party preference,
21 reflected on the primary and general election ballot, but the party
22 preference designation is selected solely by the candidate and is
23 shown for the information of the voters only. It does not constitute
24 or imply an endorsement of the candidate by the party designated,
25 or affiliation between the party and candidate, and no candidate
26 nominated by the qualified voters for any voter-nominated office
27 shall be deemed to be the officially nominated candidate of any
28 political party. The parties may list the candidates for
29 voter-nominated offices who have received the official endorsement
30 of the party in the sample ballot.

31 All voters may vote for any candidate for a voter-nominated
32 office, provided they meet the other qualifications required to vote
33 for that office. The top two vote-getters at the primary election
34 advance to the general election for the voter-nominated office,
35 even if both candidates have specified the same party preference
36 designation. However, if a candidate for State Senator or Member
37 of the Assembly receives at least a majority of the votes cast for
38 that office in the primary election, that candidate shall be declared
39 elected, and no general election shall be held for that office. No
40 party is entitled to have a candidate with its party preference

1 designation participate in the general election unless that candidate
2 is one of the two highest vote-getters at the primary election.

3

4 (c) If a candidate for nomination or election to a nonpartisan
5 office, other than judicial office, will appear on the ballot, the
6 Secretary of State shall include in the state ballot pamphlet a
7 written explanation of the election procedure for such offices. The
8 explanation shall read substantially similar to the following:

9

10 NONPARTISAN OFFICES

11 Under the California Constitution, political parties are not entitled
12 to nominate candidates for nonpartisan offices at the primary
13 election, and a candidate nominated for a nonpartisan office at the
14 primary election is not the official nominee of any party for the
15 office in question at the ensuing general election. A candidate for
16 nomination or election to a nonpartisan office may NOT designate
17 his or her party preference, or lack of party preference, on the
18 primary and general election ballot. If a candidate for a nonpartisan
19 office at a primary election receives votes on at least a majority
20 of all the ballots cast for that office, the candidate shall be elected
21 to that office, and the office shall not appear on the ballot at the
22 ensuing general election. Otherwise, the top two vote-getters at
23 the primary election advance to the general election for the
24 nonpartisan office.

25

26 (d) Posters or other printed materials containing the notices
27 specified in subdivisions (a) to (c), inclusive, shall be included in
28 the precinct supplies pursuant to Section 14105.

29 SEC. 6. Section 15452 of the Elections Code is amended to
30 read:

31 15452. The person who receives a plurality of the votes cast
32 for any office is elected or nominated to that office in any election,
33 except with respect to the following:

34 (1) An election for which different provision is made by any
35 city or county charter.

36 (2) A municipal election for which different provision is made
37 by the laws under which the city is organized.

38 (3) The election of local officials in primary elections as
39 specified in Article 8 (commencing with Section 8140) of Chapter
40 1 of Part 1 of Division 8.

1 (4) The nomination of candidates for a voter-nominated office
2 at the primary election to participate in the general election for
3 that office as specified in Article 8 (commencing with Section
4 8140) of Chapter 1 of Part 1 of Division 8, except as to the
5 nomination of a candidate for State Senator or Member of the
6 Assembly where a candidate receives at least a majority of the
7 votes cast for that office in a primary election.

8 SEC. 7. This act shall become operative only if Senate
9 Constitutional Amendment— 14 of the 2013–14 Regular
10 Session is approved by the voters.

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