
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No: SB 409 **Hearing Date:** 4/18/23
Author: Newman
Version: 3/13/23 Amended
Urgency: No **Fiscal:** Yes
Consultant: Karen French

Subject: Elections: candidate's statement

DIGEST

This bill creates a Secretary of State (SOS) county pilot program that would allow a candidate to include in the voter information guide a QR code link to a video statement. This bill also requires, subject to the Americans with Disabilities Act, a candidate who is submitting a statement for a voter information guide to physically write the statement without reference to any outside materials at specified locations.

ANALYSIS

Existing law:

- 1) Authorizes a candidate for State Senate and Assembly or statewide elective office, who accepts the voluntary expenditure limits, and United States House of Representatives to purchase the space to place a statement in the voter information portion of the county voter information guide, as specified.
- 2) Requires a candidate running for elective office in a multicounty district who desires to have a candidate statement printed in a county voter information guide to submit the statement in a manner that complies with both state and local requirements for the county publishing the voter information guide.
- 3) Requires an elections official to accept the electronic transmission of a form used by a candidate to submit a candidate statement if the elections official posts the form on the elections official's internet website.
- 4) Provides if the candidate is running in a multicounty district, the elections official of each county accept the form from the candidate's county of residence; however, the candidate shall provide a hard copy of the candidate statement form and payment of the requisite fee to each county. The elections official shall not require the candidate form if it is submitted in accordance with the times and procedures set forth in the code for the preparation of the voter information portion of the county voter information guide.
- 5) The elections official shall not require the candidate to submit any additional forms as a means of correcting Internet Web site posting errors made by the elections official. Permits an elections official to require a candidate to provide additional

information that the official needs to comply with state law and county voter information guide requirements.

This bill:

- 1) Requires the SOS to establish a pilot program that would allow a candidate to include a QR code link, as defined, to a video statement in the state voter information guide, as specified.
- 2) Requires the SOS to seek to collaborate with at least one, but not more than four, county elections offices to establish a similar program for county voter information guides.
- 3) Requires, subject to the Americans with Disabilities Act of 1990, a candidate who is submitting a statement for a voter information guide to physically write the statement without reference to any outside materials in a county elections office or a place designated by the SOS, as specified.
- 4) Establishes timeframes for a county elections office to transmit the candidate's statement to other counties in which the candidate is running for office, as specified. Because the bill would increase the responsibilities of a county elections office and expand the scope of an existing crime, this bill would impose a state-mandated local program.
- 5) Imposes a local mandate on county elections offices and increases responsibilities of the SOS. Includes a crimes and infractions local mandate disclaimer and declares that it furthers the purposes of the PRA.

BACKGROUND

Current candidate process and guidelines. The SOS publishes guidelines for candidate statements for statewide elective office for inclusion in the state voter information guide. Requirements include: the statement shall not exceed 250 words, should be typewritten, double-spaced and in standard paragraph style, may not make reference to any other candidate, and is limited to a recitation of the candidate's own personal background and qualifications. The candidate statement shall be accompanied by a declaration that the statement being submitted is true and correct and shall be attested to and signed by the candidate. Copies may be emailed or faxed to the SOS with the original mailed and delivered to the SOS Elections Division by a specified date.

Candidates for other offices may submit candidate statements for inclusion in the county voter information guide subject to similar requirements of county election officials.

COMMENTS

- 1) According to the author: By ensuring that the words in a candidate's ballot statement are their own and by providing voters the opportunity to view those ballot statements in a medium that is accessible and already familiar, SB 409 will advance

the cause of transparency and accountability on which our elections, and the governance they yield, ultimately depend.

While ballot statements should be a way for voters to get an accurate picture of the candidates they are seeking to elect, ballot statements have turned into yet one more election-related task performed not by candidates themselves, but by professional, paid political consultants. This trend, while entirely predictable, has led to a status quo where voter guides, despite their ostensible purpose and substantial cost to the taxpayer, have become just one more element in the “ad-ification” of our politics and elections.

- 2) Argument in Support. In a letter supporting SB 409, Citizens Take Action states, in part, the following:

Citizens Take Action is an organization that supports efforts to make government more responsive, transparent, and accountable. We have released a report card that grades cities in Orange County on the strength of their campaign finance laws and the transparency of campaign finance data. We were part of the coalition of groups that supported SB 1439, which helped apply the Levine Act at the local level. We have also worked with local high school students to host voter registration drives at their schools.

Unfortunately, like so many other features of modern campaigning, the creation of candidate ballot statements has become yet one more election-related task that is too often performed not by candidates themselves, but by professional, paid political consultants. To combat this reality and restore integrity and authenticity to ballot statements, SB 409 would require that any candidate submitting a ballot statement personally compose their ballot statement, under the supervision of office personnel at a county registrar or the Secretary of State's office, thereby ensuring that the statement is their own work product, in their own words. By ensuring that the words in a candidate's ballot statement are their own and by providing voters the opportunity to view those ballot statements in a medium that is accessible and already familiar, SB 409 will advance the cause of transparency and accountability on which our elections, and the governance they yield, ultimately depend.

- 3) Physically written at specific locations. This bill has potential implications: a) to create barriers for individuals who may not be able to access the location and/or have limited literacy skills; b) to require designated space for writing; c) to hire and train proctors to monitor the writing in order to enforce the requirement that no outside materials are being used; d), to impose time limits on the writing period within normal staff working hours; and e) to ensure that the bill does not discriminate against prospective candidates with disabling conditions such as anxiety, dysgraphia, and dyslexia?
- 4) SOS county pilot program implementation? The SOS has not provided the committee with information regarding how or whether they would be able implement this program.

- 5) Candidate video statements? In addition to the potential implications noted above, the video statements provision in the bill provides no assurance that a video statement is the sole work product of the candidate and has not been professionally produced, scripted, rehearsed, edited, dubbed, or otherwise enhanced.

The committee may wish to consider whether the SOS and counties have sufficient resources and capability to provide appropriate locations and staffing to oversee of the physically written requirement; and whether the potential benefits of this bill outweigh the concerns noted above.

RELATED/PRIOR LEGISLATION

SB 248 (Newman) of 2023, requires a candidate for elective office, to include with a statement of intention to be a candidate for a specific office, a form disclosing the candidate's prior education and work history, history of military service, if any. Requires the SOS to create a form for this purpose, and post on its website a copy of completed forms submitted by candidates. SB 248 is before this committee and is set for hearing on 4/18/2023.

SB 632 (Caballero) of 2023 allows a candidate running for elective office in a multicounty district to submit their candidate statement to the SOS for review and approval based on the statement's conformance with state law. If approved by the SOS, each county official is required to accept the approved statement and is prohibited from requiring any modification to the approved language. The candidate is required to use the same statement in each county. SB 632 is before this committee and is set for hearing on 4/18/2023.

AB 894 (Frazier) of 2017 would have increased the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from \$1,000 to \$5,000. AB 894 was vetoed by Governor Brown. In the Governor's veto message, Governor Brown stated the following, "I am not convinced this is a widespread problem in California elections or that this bill would be much of a deterrent. The conventional response to resume puffing is exposure by the press or political attack by the opposition."

AB 2010 (Ridley-Thomas), Chapter 128, Statutes of 2016, permitted local agencies to allow candidates for local, nonpartisan elective office to submit candidate statements that are electronically distributed, but are not included in the voter's pamphlets that accompany the sample ballots.

SB 1223 (Burton), Chapter 102, Statutes of 2000, became Proposition 34 on the November 2000 General Election Ballot. The proposition, which passed with 60% of the vote, made numerous substantive changes to the PRA, including imposing limits on contributions to candidates and committees for the purpose of seeking, supporting, or opposing candidacies for elective state office, instituting voluntary limits on campaign expenditures for candidates seeking elective state office, and imposing specified disclosure requirements, specified penalties, and enforcement procedures.

POSITIONS

Sponsor: Author

Support: Citizens Take Action

Oppose: Election Integrity Project California, Inc.

-- END --