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

Bill No: SB 251 **Hearing Date:** 1/9/24
Author: Newman
Version: 1/3/24
Urgency: No **Fiscal:** No
Consultant: Scott Matsumoto

Subject: Candidates' statements: false statements

DIGEST

This bill increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from \$1,000 to \$5,000.

ANALYSIS

Existing law:

- 1) Permits each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, to prepare a candidate's statement on an appropriate form provided by the elections official. Provides that the statement may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate themselves. Permits the governing body of the local agency to authorize an increase in the limitations on words for the statement from 200 to 400 words. Prohibits the candidate's statement from including the party affiliation of the candidate, or membership or activity in partisan political organizations.
- 2) Requires that a copy of the candidates' statements be made available for public examination for a period of 10 calendar days immediately following the filing deadline for submission of those documents, as specified.
- 3) Provides that any voter of the jurisdiction in which the election is being held, or the elections official, may seek a writ of mandate or an injunction requiring any or all of the material in the candidates statements to be amended or deleted during the 10-calendar-day public examination period. Requires that the writ of mandate or injunction request be filed no later than the end of the 10-calendar-day public examination period.
- 4) Provides that a candidate in an election, or an incumbent in a recall election, who knowingly makes a false statement of a material fact in a candidate's statement, is punishable by a fine not to exceed \$1,000.

This bill:

- 1) Increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from \$1,000 to \$5,000.

BACKGROUND

Public Examination of Candidate's Statements. The elections official must make a copy of candidate statements available for public examination in the elections official's office for a period of 10 calendar days immediately following the filing deadline for submission of those documents. During the 10-calendar-day public examination period, any voter of the jurisdiction in which the election is being held, or the elections official, may seek a writ of mandate or an injunction requiring any or all of the material in the statements to be amended or deleted.

A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

Previous Effort. AB 894 (Frazier) of 2017 sought to increase the maximum fine for knowingly making a false statement of a material fact in a candidate's statement. The introduced version removed the \$1,000 maximum fine and instead required a candidate or incumbent convicted of knowingly making a false statement of a material fact in a candidate's statement to forfeit the office for which the candidate's statement was prepared. Additionally, if a special election was to be held to fill the vacancy in the office caused by the forfeiture, the candidate or incumbent would have been required to reimburse the jurisdiction for any expenses authorized and necessarily incurred in the preparation for, and conduct of, the special election.

AB 894 went through various iterations that included forfeiting the office for which the candidate's statement was prepared along with a maximum \$1,000 fine and increasing the maximum fine from \$1,000 to \$10,000. When the AB 894 passed the Legislature, the bill increased the maximum fine from \$1,000 to \$5,000.

Governor Brown vetoed AB 894. Below is Governor Brown's veto message:

I am returning Assembly Bill 894 without my signature.

This bill increases the maximum fine for knowingly making a false statement of a material fact in a candidate's statement from \$1,000 to \$5,000.

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.

COMMENTS

- 1) According to the author: Current law provides various guidelines for which a candidate for elected public office must abide when forming their candidate ballot statement. If a candidate intentionally falsifies information on their ballot statement with the intent to mislead voters, the candidate may be punished by a fine not to exceed \$1,000. This fine has not been adjusted since 1993. Many other election related crimes carry a much higher penalty in order to deter these crimes from happening.

SB 251 will ensure voters and taxpayers are protected against candidates for public office who intentionally misrepresent their background and mislead voters. Raising the maximum fine from \$1,000 to \$5,000 will provide a stronger deterrent for candidates who intentionally mislead voters. SB 251 will help protect our fair and open elections in California.

- 2) Previous Version. The prior version of this bill would have prohibited an elected officer from being employed by another elected officer with the same constituency. That version of the bill failed passage in this committee by a vote of 2-0 (four votes were needed for passage).
- 3) Double Referral. Since SB 251 was amended to reflect the current language, this bill was double-referred to the Committee on Public Safety.

RELATED/PRIOR LEGISLATION

AB 1021 (Rogers), Chapter 57, Statutes of 1982, provided that a candidate in an election, or an incumbent in a recall election, who knowingly makes a false statement of a material fact in a candidate's statement, is punishable by a fine not to exceed \$1,000.

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. Governor Brown's veto message stated, "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."

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

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

Bill No: SB 863 **Hearing Date:** 1/9/24
Author: Allen
Version: 1/3/24
Urgency: No **Fiscal:** No
Consultant: Scott Matsumoto

Subject: Measures proposed by the Legislature

DIGEST

This bill allows the Legislature to specify the statewide election a constitutional amendment, bond measure, or other legislative measure submitted to the people shall appear on the ballot if the election specified in the proposal would occur at least 131 days after the proposal's adoption by the Legislature, as specified.

ANALYSIS

Existing law:

- 1) Provides voters with the ability to propose changes to the California Constitution or statute via initiative or to repeal a recently passed law via referendum.
- 2) Provides that every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

This bill:

- 1) Permits the Legislature to specify the statewide election a constitutional amendment, bond measure, or other legislative measure submitted to the people shall appear on the ballot if the election specified in the proposal would occur at least 131 days after the adoption of the proposal by the Legislature, as specified.

BACKGROUND

Types of Ballot Measures. Under existing law, the Legislature is permitted to submit to constitutional amendments, bond measures, or other legislative measures to voters for their approval and adoption. These are referred to as legislative ballot measures. Legislative ballot measures include amendments to the California Constitution (referred to as legislative constitutional amendments) and other legislative changes (referred to as legislative statutes), such as a bond measure. Legislative ballot measures are placed on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

Additionally, Californians also possess the ability to propose changes through the initiative and referendum process. For initiatives, these ballot measures are typically referred to as initiative statutes, such as bond measures or other statutory changes. For amendments to the California Constitution through the initiative process, it is referred to as an initiative constitutional amendment.

Finally, Californians also have the power to approve or reject statutes or parts of statutes, with the exception of urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual, current state expenses. These are referred to as referendum measures.

Initiative measures and/or referendum measures only appear at the statewide general elections.

Companion Bills. For legislative constitutional amendments, additional legislation is needed to move a proposed constitutional amendment from the election where the proposed measure is placed (i.e. the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature) to another election. These companion bills move through the legislative process and are signed or vetoed by the Governor.

For example, SB 789 (Allen), Chapter 787, Statutes of 2023, moved three measures that would have been placed on the ballot for the March 5, 2024 statewide primary election to the November 5, 2024 statewide general election.

COMMENTS

- 1) According to the author: The Legislature has the ability to propose bonds, certain changes to statute, and amendments to the California Constitution to the voters for approval at a statewide election. State law currently allows the Legislature to specify in a bond or statutory measure at which statewide election it will appear before voters. However, the same flexibility does not exist for constitutional amendments, which occasionally require accompanying legislation to determine ballot placement. SB 863 will conform these processes and allow the Legislature to specify a ballot in a proposed constitutional amendment.
- 2) Need for the Measure. In the materials provided by the author, the author notes Section 9040 of the California Elections Code requires constitutional amendments, bonds, and other legislative measures submitted to the voters to appear on the ballot of the next statewide election occurring at least 131 days after adoption by the Legislature. In the case of a bond or statutory measure, the Legislature can bypass this default timeline and instead place the proposal on a statewide ballot farther in the future. Bonds and statutory measures are subject to the same process as general legislative bills, must be signed by the Governor, and have the effect of law.

The author also explains that constitutional amendments are subject to a different process as outlined in Article XVIII of the California Constitution. Legislative constitutional amendments must be approved by a two-third vote of both houses of the Legislature and are not required to be signed by the Governor. In effect, a constitutional amendment does not have the force of law and cannot bypass the

default ballot referral timeline specified in Section 9040 of the Elections Code. All proposed legislative constitutional amendments are automatically referred to the next statewide ballot. If the Legislature wishes to move a proposed constitutional amendment to another ballot, it requires accompanying legislation calling a special election.

- 3) Governor's Role. Since legislative constitutional amendments are considered resolutions, instead of bills, the Governor does not consider those measures for a signature or veto. Under the provisions of SB 863, a companion bill requiring a Governor's signature would no longer be needed. As a result, the Governor would no longer have a formal avenue for input when considering moving a proposed legislative constitutional amendment from one election to another.

RELATED/PRIOR LEGISLATION

SB 292 (Moscone), Chapter 326, Statutes of 1968, provided that every measure submitted to the people by the Legislature shall appear on the ballot of the first *general* election occurring after 150 days after the adoption of the measure.

AB 1429 (Waxman), Chapter 1775, Statutes of 1971, provided that every measure submitted to the people by the Legislature shall appear on the ballot of the first *statewide* election occurring after 150 days after the adoption of the measure.

AB 4214 (Garcia), Chapter 1389, Statutes of 1974, changed, from 150 day to 131 days, the number of days which must intervene between adoption of a proposal by the Legislature and its submission to the people at a statewide election.

SB 789 (Allen), Chapter 787, Statutes of 2023, moved SCA 2 (Allen), Resolution Chapter 182, Statutes of 2022, ACA 1 (Aguiar-Curry), Resolution Chapter 173, Statutes of 2023, ACA 5 (Low), Resolution Chapter 125, Statutes of 2023, from the March 5, 2024 statewide primary election to the November 5, 2024 statewide general election.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

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