

**In the Supreme Court of the State of California**  
**FILED WITH PERMISSION**

**JESSICA MILLAN PATTERSON,  
CALIFORNIA REPUBLICAN PARTY,,**

**Petitioners,**

**v.**

**ALEX PADILLA, CALIFORNIA  
SECRETARY OF STATE,**

**Respondent.**

Case No. S257302 SUPREME COURT  
**FILED**

SEP 06 2019

Jorge Navarrete Clerk

Deputy

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PADILLA'S RESPONSE TO ORDER TO SHOW CAUSE**

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Respondent California Secretary of State Alex Padilla incorporates his preliminary opposition to the Emergency Petition for Writ of Mandate or Other Extraordinary or Immediate Relief filed by petitioners Jessica Millan Patterson and the California Republican Party, and further responds to the Court's August 21, 2019 order to show cause as follows.

### INTRODUCTION

Petitioners incorrectly assert that the Secretary of State possesses “exclusively delegated,” “sole authority” under article II, section 5(c) of the Constitution to find and place presidential candidates on California’s primary ballots. (See, *e.g.*, Petns.’ Reply to Prelim. Opp’n, p. 6.) Their contention is belied by the legislative history of section 5(c), which the Legislature proposed in 1971 as Senate Constitutional Amendment 3 (SCA 3), and voters approved in 1972 as Proposition 4. That history shows that while other aspects of this constitutional amendment were modeled on similar laws in other states, the Legislature affirmatively declined to follow those states and give the Secretary “sole discretion” to identify primary candidates. On the contrary, after the Governor three times vetoed legislation giving the Secretary “sole discretion” to name candidates, the Legislature removed that phrase from SCA 3. In doing so, the Legislature signaled its intention to retain its ability to define further who can be a “recognized candidate” that the Secretary may place on a primary ballot, which is within its plenary power to provide for partisan elections for presidential candidates.

The relevant legislative analyses and history show that section 5(c) provides for open presidential primaries, only limiting the Legislature’s prerogative to maintain a closed primary system (which often allowed for “favorite son” nominees not elected by voters.) Under section 5(c), the Legislature retains the power to “provide” for open primary presidential elections by enacting laws regulating them, such as requiring candidates to

submit candidacy forms or provide copies of their tax returns—which presidential candidates have otherwise done for almost fifty years.

The Legislature acted consistent with its constitutional authority by enacting Senate Bill 27 (SB 27). The Secretary urges this Court to discharge its order to show cause and deny the petition for writ of mandate.

### **SUMMARY OF ARGUMENT**

Since California's first days as a state, its Constitution has granted the Legislature the power to enact laws regulating primary elections. In response to criticism of a primary election system that permitted contested primaries to be avoided, Article II was amended in 1972 to provide for open presidential primaries, in which nationally recognized candidates would be placed on the primary ballot by the Secretary and voted on by the electorate.

In drafting the proposed amendment, the Legislature affirmatively omitted any language that the Secretary would have "sole discretion" to name candidates for placement on a primary ballot. In fact, the only legislative power that the Article II revision altered was that the Legislature thereafter would provide for open partisan presidential primary elections with the electorate voting for candidates. That revision (now section 5(c)) did not strip the Legislature of its power to regulate or oversee primary elections more generally. Under power it has held for at least a hundred years, the Legislature may enact laws regulating the process by which particular candidates appear on a party's primary ballot, even if they are nationally recognized. The Legislature exercised that same power when it passed SB 27, codifying the decades-old tradition of presidential candidates providing voters their tax returns, and requiring them to do so before they can be placed on the ballot.

The Legislature acted well within its constitutional power when it enacted SB 27. The petition for writ of mandate should be denied.

## HISTORICAL BACKGROUND

### I. EARLY CONSTITUTIONAL PROVISIONS FOR PRIMARY ELECTIONS.

Since 1849, California's Constitution has granted the Legislature plenary power to make laws (see Cal. Const. (1849) art. IV, § 1), with the Secretary of State authorized "to keep a fair record of the official acts of the Legislative and Executive Departments of the Government ... [and] perform such other duties as may be assigned him by law." (Cal. Const., (1849) art. V, § 19.)

In 1900, Article II, section 2 1/2 of California's Constitution stated:

The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory

....

(Cal. Const. (1900), art. II, § 2 1/2.) By 1905, scholars recognized that the Legislature had "the power to legislate upon the subject" of primary elections "in quite a radical way." (Mechem, *Constitutional Limitations on Primary Election Legislation* (1905) 3 Mich. L.Rev. 364, 364-365.)

In 1908, section 2 1/2 (later renumbered section 2.5) was amended to replace political-party nominating systems with the voters' direct nomination of candidates. (See generally *Christian Nationalist Party v. Jordan* (1957) 49 Cal.2d 448, 452-453; *Communist Party v. Peek* (1942) 20 Cal.2d 536, 544-545; *Socialist Party v. Uhl* (1909) 155 Cal. 776; *Schostag v. Cator* (1907) 151 Cal. 600, 605.) That amendment read, in the part relevant to determining legislative intent, as follows:

The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory .... Provided, however, that until the Legislature shall enact a direct primary election law under the provisions of this section, the present primary election law shall remain in force and effect.

(Cal. Const., as amended Nov. 3, 1908, art. II, § 2 1/2, italics omitted.)

Under this constitutional provision, the ability to regulate primary ballots, and the candidates appearing on them, undisputedly lay with the Legislature. (*Socialist Party v. Uhl, supra*, 155 Cal. at p. 792 [“The power is vested in the Legislature, under section 2 1/2 of article 2, to determine the tests and conditions upon which participation in a primary election may be had, either by electors as voters thereat, or by electors as candidates thereunder. The right is thus conferred to prescribe any reasonable test, and it is the duty of the Legislature to prescribe one.”].)

Nevertheless, primary elections were not regularly held in California, and slates of electors or delegates would be “held back” to be pledged during the party convention’s nominating process. For instance, the two major party candidates in the 1968 presidential election—Hubert Humphrey and Richard Nixon—did not appear on their respective party’s primary ballots. (See 1972 Voter Information Pamphlet, p. 10, attached to Petn. for Writ of Mandate, exhibit D [“The ‘favorite son’ device has been used by Governors from both parties to prevent a contested primary ....”].)

## II. LEGISLATION LEADING UP TO SENATE CONSTITUTIONAL AMENDMENT 3.

### A. Senate Bill 586 (1967).

Before SCA 3 was proposed in 1971, Senator Alfred Alquist introduced at least five bills and proposed constitutional amendments seeking to institute open presidential primaries. The first was SB 586 (1967), which proposed a new Elections Code section 6051. It read, in relevant part:

The name of any candidate for a qualified political party nomination for President ... shall be printed on ballots only:

(a) by direction of the Secretary of State, who shall place the name of such a candidate upon the ballot when he shall have determined in his *sole discretion* that such candidate's candidacy is generally advocated or recognized in national news media throughout the United States ....

(Sen. Bill No. 586 (1967 Reg. Ses.), attached as exhibit A, emphasis added.)

In his press release concerning SB 586, Senator Alquist explained that the proposed legislation "will be patterned after the 'Oregon Plan,' by which the Secretary of State is required to list the prominently mentioned presidential candidates of both parties on the June primary ballot." (Sen. Alquist, sponsor of SB No. 586 (1967 Reg. Ses), immediate press release, Mar. 8, 1967, attached as exhibit B.)<sup>1</sup> SB 586 did not receive a final Senate vote.

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<sup>1</sup> Oregon Revised Statutes (ORS) section 249.078 reads, in relevant part:

The name of a candidate for a major political party nomination for President of the United States shall be printed on the ballot only:

(continued...)

**B. Senate Bills (SB) 145 (1968), SB 3 (1969), SB 3 (1971), SB 278 (1971), and SB 279 (1971).**

In 1968, Senator Alquist introduced SB 145, which reiterated that the Secretary would have “sole discretion” to place candidates on the presidential primary ballot. (Sen. Bill No. 145 (1968 Reg. Ses.), attached as exhibit C.) SB 145 was approved by the Legislature, but vetoed by Governor Ronald Reagan. In his veto statement to the Senate, Governor Reagan argued that the bill “limits the people’s responsibility by placing the responsibility for putting names on the California presidential ballot on the shoulders of one man.” (Governor Ronald Reagan, letter to Mem. of the Sen., Aug. 22, 1968, attached as exhibit D.)

Senator Alquist’s subsequent attempts to revise the Elections Code to provide for open presidential primaries, introduced in 1969 as SB 3, and in 1971 as SB 3, SB 278, and SB 279, similarly failed. The Legislature did not pass SB 278 and 279. And although it did approve both versions of SB 3, these bills were again vetoed by Governor Reagan on the grounds that “[t]his bill delegates to one elected official, the Secretary of State, the authority and responsibility for determining who is [or is not] a ‘generally recognized’ candidate ....” (Governor Ronald Reagan, letter to Mem. of the Sen., Sept. 4, 1969, p. 2, attached as exhibit E; Governor Ronald Reagan, letter to Mem. of the Sen., Dec. 30, 1971, attached as exhibit F.)

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(...continued)

(a) By direction of the Secretary of State who in the secretary’s sole discretion has determined that the candidate’s candidacy is generally advocated or is recognized in national news media ....” (ORS § 249.078, subd. (1)(a).) Oregon has had a version of this statute with the “sole discretion” language since at least 1910. (See Assem. Comm. on Const. Amend., Staff Analysis of SCA 3 (Alquist), Nov. 3, 1971, attached as exhibit L.)

**C. Initial Senate Constitutional Amendment – SCA 3 (1970).**

On January 12, 1970, Senator Alquist introduced SCA 3, a resolution to propose to voters a constitutional amendment adding section 7, article II to the Constitution. (1970 Final Calendar of Leg. Bus., p. 362, attached as exhibit G.) By this time, the proposed amendment conspicuously omitted the language that the Secretary would have “sole discretion” to determine that candidates were generally advocated for or recognized in the news media as presidential candidates. Instead, it states (similar to the present section 5(c)) that “the Legislature shall provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates ....” (SCA 3 (1970), attached as exhibit H.)

In reviewing the proposed amendment, the Assembly Committee on Elections and Constitutional Amendments questioned the amendment’s need, given that “the Constitution *already* expressly provides for legislative power over primaries (Art. 2, sec. 2.5).” (Assem. Comm. on Elec. and Const. Amends. Analysis of SCA 3 (Alquist), attached as exhibit I, emphasis in original.) SCA 3 (1970) was returned by the Assembly on August 21, 1970 without further action. (1970 Final Calendar of Leg. Bus., *supra*; Assem. Comm. on Const. Amend., Staff Analysis of SCA 3, *supra*, at p. 2, attached as exhibit G.)

**D. The California Constitution Revision Commission’s 1970 Report.**

Shortly after the first SCA 3 was introduced to the Legislature in January 1970, the California Constitution Revision Commission issued its report concerning proposed constitutional revisions. (Cal. Const. Revision Comm. Prop. Revision, Part 2 (1970).) There, the Commission proposed revising section 2 1/2 to read, in full: “The Legislature shall provide for



primary elections for partisan offices.” (Cal. Const. Revision Comm. Prop. Revision *supra*, at p. 19, attached as exhibit J.) The Commission’s reasoning was that:

such a revision would continue the existing mandate to the Legislature to provide for primary elections. Other provisions in existing section 2 1/2 relating to conventions of political parties, qualifications for participation in primary elections, and compensation for primary election officers are unnecessary since the Legislature has power over these matters both inherently and from proposed Section 1 [defining voter qualifications]. Detailed statutory provisions covering these and related matters already are in the Elections Code.

(*Ibid.*)

**III. SENATE CONSTITUTIONAL AMENDMENT 3 (1971) (1971 1ST REG. SESS., RES. CH. 274, P. 4868).**

In January 1971, Senator Alfred Alquist again introduced SCA 3 to provide for an “open” presidential primary, with the intent to end the strategy of candidates forgoing California primary elections in place of having their names placed into nomination at the national conventions.<sup>2</sup> This 1971 version again conspicuously excluded language that the Secretary would have “sole discretion” to determine which candidates would be named on presidential primary ballots. (Sen. Const. Amend. 3 (Reg. Ses. 1971), attached as exhibit K.)

In its analysis of SCA 3, the Assembly Committee on Elections and Reapportionment noted that “the Secretary of State would be required to place all publically recognized candidates for President on the primary ballot.” (Assem. Comm. on Elect. and Reapportionment Analysis, October 1971, attached as exhibit L.) But it further explained that “[t]here is no

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<sup>2</sup> In the August 21, 2019 order to show cause, the reference to this constitutional amendment as occurring during the Legislature’s first extraordinary session appears to be inadvertent.

companion legislation [to the proposed constitutional amendment], so that if the voters approve the amendment next year, the Legislature will have to pass legislation at some point before the 1976 primary.” (*Ibid.*) The Legislature did so in passing what are now Elections Code sections 6041, 6340, 6520, 6720 and 6851, describing which candidates may be recognized from the Democratic, Republican, American Independent, Peace and Freedom, and Green Parties, respectively.

SCA 3 was placed on the June 1972 ballot as Proposition 4. In the Assembly Committee on Constitutional Amendment’s staff analysis, there is no analysis of the change in the Legislature’s role in “determining the tests and conditions upon which participation in a primary election may be had” apart from the statement that the “Secretary of State would be required to place all publically recognized candidates for President on the primary ballot ....” (Assem. Comm. on Const. Amend., Staff Analysis of SCA 3, Nov. 3, 1971, at p. 1, attached as exhibit M.) Rather, the analysis focused on the difference between “Presidential Preference Polls” and “Delegate Elections,” which was consistent with Senator Alquist’s goal to make California primaries “open.” (*Ibid.*)

In the 1972 Voter Information Pamphlet accompanying Proposition 4, Senator Alquist explained that the ballot measure was designed to end the process by which candidates could avoid a contested primary, which could deprive California voters their say in who would ultimately be their party’s national candidate. (See June 1972 Voter Information Pamphlet, p. 10, attached to Petn. for Writ of Mandate, exhibit D.)

Proposition 4 was approved by the voters in June 1972, and became article II, section 8 of the Constitution.

#### **IV. SENATE CONSTITUTIONAL AMENDMENT 32 (1972).**

In the fall of 1972, article II was again amended. Under SCA 32, Proposition 7 appeared on the 1972 general election ballot. SCA 32

amended suffrage rights for persons over age 18 and those who had committed certain crimes. (See Nov. 1972 Voter Information Pamphlet, p. 18, attached as exhibit N.)<sup>3</sup> SCA 32 left unchanged the language empowering the Legislature to provide for presidential primary elections. Indeed, the Legislative Counsel's Detailed Analysis of Proposition 7 advised voters that "[t]he Constitution *now* authorizes the Legislature to enact laws concerning specific aspects of political conventions and primary elections, and requires the Legislature to provide for the direct nomination of candidates at primary elections.... *This measure* would delete the existing primary election provisions and require the Legislature to provide for primary elections for partisan offices. Provisions for an open presidential primary would be unchanged...." (*Ibid*, emphasis in original.)

Proposition 7 was approved by the voters and replaced article II of the Constitution.<sup>4</sup>

#### **V. GUIDELINES AND CRITERIA EMPLOYED BY THE SECRETARY TO IDENTIFY RECOGNIZED CANDIDATES.**

Beginning in 1974, the Legislature began enacting laws to regulate candidates appearing on each qualified political party's primary ballot. As mentioned above, Elections Code sections 6041, 6340, 6520, 6720 and 6851 dictate which candidates may be recognized from the Democratic, Republican, American Independent, Peace and Freedom, and Green Parties, respectively, and placed on their party's presidential primary ballot. But

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<sup>3</sup> Petitioners assert that they attached this November 1972 Voter Information Pamphlet to their emergency petition as Exhibit F. (Petns.' Emergency Petition, *supra*, p. 14.) Petitioners' exhibit F appears to be additional information from the 2010 Voter Information Pamphlet concerning Proposition 14. Respondents have provided a copy of the November 1972 Voter Information Pamphlet with this response.

<sup>4</sup> Article II, section 4—disenfranchising paroled felons—was subsequently found to violate the Fourteenth Amendment. (*Flood v. Riggs* (1978) 80 Cal.App.3d 138, 155.)

these provisions essentially reiterate the Secretary's duties under section 5(c), requiring him, for example, to "place the name of a candidate upon the presidential primary ballot when [he] has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party for President of the United States," (Elec. Code § 6041), or "place the name of a candidate upon the American Independent Party presidential preference ballot when [he] has determined that the candidate is generally advocated for or recognized in the news media throughout the United States or California ...." (Elec. Code § 6520.)

Because of the general nature of these laws, it fell to the Secretary to "consider a number of factors" when determining who might be "active presidential candidates for California." (Press Release of the Off. of the Sect. of State, Jan. 30, 1976, p. 1, attached as exhibit O.) In 1976, Secretary March Fong Eu chose to consider factors that included whether potential candidates were "announced candidates, appear to be actively campaigning, have qualified for matching federal funds under the 1974 amendments to the Federal Elections Campaign Act, and are slated to appear on other states' primary ballots." (*Ibid.*)

In 1980, Secretary Eu stated that her criteria for making "initial selections" of primary candidates included "the candidate's having qualified for federal matching funds, appearance on several state's primary ballots, inclusion in national public opinion polls, and extensive news media coverage." (Press Release of the Off. of the Sect. of State, Jan. 31, 1980, p. 2, attached as exhibit P.) In 1988, Secretary Eu stated that "criteria for inclusion on the list of selected candidates include being nationally recognized as seeking the nomination for the office of President and/or having qualified for matching federal campaign funds." (Press Release of the Off. of the Sect. of State, Jan. 29, 1988, p. 1, attached as exhibit Q.)

And in 1992, Secretary Eu announced that “[t]raditionally, the criterion for inclusion on the list of selected candidates for the Democratic and Republican ballots has been qualification for federal matching funds.” (Press Release of the Off. of the Sect. of State, Jan. 31, 1992, p. 2, attached as exhibit R.)

In 1992, Lyndon LaRouche, who had been denied placement on the primary ballot, petitioned for mandamus, arguing that the criteria for determining if a candidate was “generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party” (Elec. Code § 6041 (previously Elec. Code § 6311)) should not have as their “threshold” a qualification for funding under the Federal Elections Campaign Act. (See *LaRouche v. Eu*, Super. Ct. Sacramento County, 1992, No. 369837, at p. 2.) The Sacramento County Superior Court agreed, listing—without citing any references—a “host of other factors [that] should be considered, in addition to qualification for federal funding.” (*Id.* at p. 3.) The court said these included: “appearances on other states’ ballots;” a “significant level of support in California or the United States as a whole;” and “whether the candidate has appeared on the California ballot previously.” (*Ibid.*) It concluded by granting a writ of mandate requiring LaRouche to be placed on the June 1992 Democratic primary ballot. (*Ibid.*)

In 2000, Secretary Bill Jones announced that the criteria for primary presidential candidates would “include, but [would not be] limited to:

- (1) Qualification for federal matching funds from the Federal Election Commission;
- (2) Appearing on ballots for President in primary elections in other states;
- (3) Extensive coverage by the news media as viable candidates;

(4) Inclusion in national or statewide public opinion polls and surveys;

(5) For minor parties, the Secretary may also rely on advice and input from the state party chairs.

(Sect. of State Info. Sheet of Qualifications and Requirements, March 7, 2000 Primary Elec. <<https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/primary-election-march-7-2000/candidate-qualifications-and-requirements/>> [as of Sept. 4, 2019].)

In 2004, Secretary Kevin Shelly announced identical criteria for the presidential primary election. (Sect. of State Info. Sheet of Qualifications and Requirements, March 2, 2004 Primary Elec.

<<https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/presidential-primary-election-march-2-2004/qualifications-running-office/>> [as of Sept. 4, 2019].) Secretary Debra Bowen did so in 2008 and

again in 2012. (Sect. of State Info. Sheet of Qualifications and Requirements, February 5, 2008 Primary Elec.

<<https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/presidential-primary-election-february-5-2008/qualifications-running-office/>> [as of Sept. 4, 2019]; Sect. of State Info. Sheet of Qualifications and Requirements, June 5, 2012 Primary Elec.

<<https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/presidential-primary-election-june-5-2012/qualifications-running-office/>> [as of Sept. 4, 2019].) And in 2016, Secretary Padilla again used these same criteria to determine “generally-recognized” candidates. (Sect. of State Info. Sheet of Qualifications and Requirements, June 7, 2016 Presidential Primary Elec. <<https://www.sos.ca.gov/elections/prior-elections/statewide-election-results/presidential-primary-election-june-7-2016/qualifications-running-office/>> [as of Sept. 4, 2019].)

In 2019, given the continued “lack of statutory guidance to provide potential candidates transparency in the process in regards to whom the [Secretary of State] recognizes as a presidential candidate,” Secretary Padilla sponsored Senate Bill 505, under which the Legislature enacted Elections Code sections 6000.1 and 6000.2. (Sen. Comm. on Elec. and Const. Amends., Mar. 25, 2019, p. 5, attached as exhibit S.) Through this bill, the Legislature—under its plenary power to “provide for partisan elections”—provided statutory guidance to the Secretary concerning who may be found to be a “recognized candidate” eligible for placement on a presidential primary ballot.

Senate Bill 505 was passed, and the Elections Code sections defining “recognized candidates” (section 6000.1) and requiring such candidates to submit a form establishing that they meet criteria before being recognized (section 6000.2), were enacted in July 2019.

## ARGUMENT

### **I. ARTICLE II, SECTION 5(C) DOES NOT DELEGATE TO THE SECRETARY SOLE, EXCLUSIVE AUTHORITY TO IDENTIFY RECOGNIZED PRESIDENTIAL CANDIDATES.**

#### **A. The Legislature Retained Its Constitutional Power To Regulate Primary Elections.**

The constitutional provision at issue in this case, article II, section 5(c) reads:

The Legislature shall provide for partisan elections for presidential candidates, and political and party central committees, including an open presidential primary whereby candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing and affidavit of noncandidacy.

Petitioners argue that the lead phrase of section 5(c), confirming the

Legislature's power to enact laws establishing the ground rules for primary elections—"[t]he Legislature shall provide for partisan elections for presidential candidates"—is prefatory and effectively meaningless. (Petns.' Reply to Prelim. Opp'n at p. 11.) Instead, they argue that the language following it is "the constitutional delegation of authority and duty in the Secretary of State to identify the candidates whose names will be placed on the primary election provided for by the Legislature." (*Ibid.*) Petitioners' argument fails. As detailed above, SCA 3 and Proposition 4 were the Legislature's response to criticism that California's primary election system did not always permit voters "a direct voice in the decision" of selecting presidential candidates. (See June 1972 Voter Information Pamphlet, p. 10, attached to Petn. for Writ of Mandate, exhibit D.) But the amendment did not alter the Legislature's power to "provide for partisan elections." Instead, the amendment explicitly directs mandatory authority to the Legislature only. (Cal. Const., art. II, § 5(c) ["The Legislature will provide ..."].) This legislative choice should not be understood to be anything other than deliberate, made after multiple gubernatorial vetoes of legislation that otherwise directed authority to the Secretary.

The California Constitution Revision Commission's comments that the Legislature "has the power over" all primary procedures and primary elections "both inherently" and under its constitutional powers enumerated under section 1, was written before SCA 3 was approved by the Legislature for inclusion on the 1972 ballot. (See Cal. Const. Revision Comm. Prop. Revision, *supra*, at p. 19.) It is apparent that the Legislature recognized that it had "inherent" power to define the elements of any constitutional amendment that was not self-executing, such as determining rules for participation in primary elections. (*Ibid.*) Proposition 4 in no way altered that inherent power. Section 5(c) has consistently stated that "the Legislature shall provide for partisan elections for presidential candidates,"



and that this power “includes” an open presidential primary with candidates found by the Secretary. (Cal. Const., art. II, sec. 5(c).)

The Legislature has already permissibly acted to define who may be a “recognized candidate” through laws that only allow candidates identified with qualified parties to appear on ballots. (*Lubin v. Panish* (1974) 415 U.S. 709, 718 [California permitted to “impose on minor political parties the precondition of demonstrating the existence of some reasonable quantum of voter support ....”]; *Libertarian Party v. Eu* (1980) 28 Cal.3d 535, 546 [the state’s objective to manage candidates appearing on primary election ballots would be “subvert[ed] ... if nonqualified parties could achieve ballot status simply by having their candidates add a wholly unauthorized party designation to their independent nomination papers.”]; see also *Storer v. Brown* (1973) 415 U.S. 724, 730 [“[T]here must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process.”].) Here, because it retained its plenary power to “provide for partisan elections” under section 5(c), the Legislature may enact further statutes to determine who may be placed on those ballots. It properly did so when it enacted SB 27.

**B. Proposition 4 Is Not An Unambiguous Transfer Of Constitutional Power.**

Even if the legislative history did not clearly evince an affirmative intent to preserve the Legislature’s longstanding power to regulate primary elections (which it does), that history does not show that the Legislature or voters clearly intended to vitiate that power.

“[W]e do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited. In other words, unless restrained by constitutional provision, the legislature is vested with the whole of the legislative power of the state.” (*Fitts v.*

*Superior Court* (1936) 6 Cal.2d 230, 234.) Without express language showing an unambiguous legislative intent to cede legislative power and transfer it to the Secretary, this Court should not find, by implication or otherwise, that the Legislature intended to transfer the constitutional and legislative duties to “provide for partisan elections of presidential candidates.” (See, e.g., *Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691.)

Petitioners concede that under section 5(c), the Legislature retains a degree of power to regulate primary elections. Specifically, under their interpretation of section 5(c), the Legislature has “authority to call elections and provide for the time, place, and manner of conducting such elections, even partisan primary elections.” (Petns.’ Reply to Prelim. Opp’n, p. 11.) But petitioners significantly over-read the Legislature’s intent when it presented Proposition 4 to the voters in 1972. Under section 5(c), the Legislature is now required to hold primary elections that allow voters to have a direct voice in selecting their candidates. Proposition 4 did not vitiate the Legislature’s ability to regulate those elections and pass laws that, for instance, limit candidates to those within recognized parties, require forms to be filed, or require information to be disclosed to better educate California’s voters.

Based on both the legislative history of Proposition 4 and the Legislature’s plenary power to “provide for partisan elections for presidential candidates” (Cal. Const., art. II, sec. 5(c)), a power that “includes”—but is in no way limited to—having the Secretary find “recognized candidates,” the Legislature was well within its power to enact the laws provided for under SB 27.

On this basis alone, the petition for writ of mandate should be denied.

**C. The Arguments by Ballot Measure Opponents in the 1972 Voter Information Pamphlets Were Wrong.**

In the 1972 Voter Information Pamphlet accompanying Proposition 4, Senator Alquist explained that it was designed to end the process by which candidates could avoid a contested primary. (See June 1972 Voter Information Pamphlet, *supra*, at p. 10.) Petitioners make much of Senator George Deukmejian's argument that the proposition would give "just one man, the California Secretary of State, the right to determine which names will be placed on the ballot for President." (*Id.*, at p. 11.) But that argument was clearly inaccurate. It failed to confront, much less reconcile, the relevant change in language omitting that the Secretary had the "sole discretion" to determine who would be placed on a presidential primary ballot. Indeed, the argument appears to take its cue—and perhaps simply repeats—the argument in Governor Reagan's prior veto statements. But Senator Deukmejian's ballot argument responded to language that had been stripped out of the provision, ostensibly—given the history of prior gubernatorial vetoes—for the very purpose of alleviating concerns that the Secretary would have "sole discretion" to identify nationally recognized presidential candidates. (See Hist. Background, *supra*, Secs. II.C. and III.)

In November 1972, the Legislature placed Proposition 7 on the ballot, requesting from voters an amendment to bring the Constitution "into conformity with recent changes in the laws governing voting" and allowing 18-year-olds to vote, and to "remove detailed and unnecessary language related to primary elections ...." (Nov. 1972 Voter Information Pamphlet, p. 19, attached as exhibit M.) In his argument against Proposition 7, Senator James Whetmore asserted that Proposition 7 "places in the hands of the Secretary of State the complete judgment as to whose names should be on the presidential ballot." (*Id.* at p. 20.) He concluded by arguing that the proposed revision should be rejected "and the present system which has

worked so well for many years should be retained.” (*Ibid.*) In that argument, it is unclear whether Senator Whetmore was referring to constitutional provisions just enacted by the voters six months earlier under Proposition 4, or the Constitution’s language before 1972, which did not direct the Secretary to find and place “recognized candidates” on the ballot. Either way, similar to Senator Deukmejian earlier that year, it appears that Senator Whetmore was referring to language that no longer appeared in Proposition 7 or Proposition 4.

Although analyses and arguments in official ballot pamphlets may be helpful in ascertaining the voters’ intent when ballot language is ambiguous (which it is not here), ballot measure opponents “frequently overstate the adverse effects of the challenged measure, and ... their ‘fears and doubts’ are not highly authoritative in construing the measure.” (*Legislature v. Eu* (1991) 54 Cal.3d 492, 504-505, quoting *DeBartolo Corp. v. Fla. Gulf Coast Trades Council* (1988) 485 U.S. 568, 585.) Given that the provision providing the Secretary “sole discretion” to name candidates—the language upon which Governor Reagan, in part, based his prior vetoes—was removed from SCA 3, Senators Deukmejian and Whetmore’s arguments were plainly wrong when they were made, and are entitled to no weight now.

## **II. ARTICLE II, SECTION 5(C) IS NOT A SELF-IMPLEMENTING CONSTITUTIONAL PROVISION.**

### **A. The Secretary Exercises A Measure Of Discretion In Implementing Article II, Section 5(C).**

The Secretary’s discretion in implementing section 5(c) further shows that the petition for writ of mandate should be denied.

“The Secretary only has such powers as have been conferred by the California Constitution or statute.” (*Roman Catholic Bishop of San Jose v. Bowen* (2013) 219 Cal.App.4th 484, 495, citing *Ferdig v. State Personnel*

*Board* (1969) 71 Cal.2d 96, 103). The Elections Code and Government Code sections 12159, *et seq.*, generally define the Secretary's duties, which have been characterized as largely—but not exclusively—ministerial in nature. (*Rixford v. Jordan* (1931) 214 Cal. 547, 555-556.) “A ministerial duty is an obligation to perform a specific act in a manner prescribed by law whenever a given state of facts exists, without regard to any personal judgment as to the propriety of the act.” (*People v. Picklesimer* (2010) 48 Cal.4th 330, 340.) A petitioner bears the burden of demonstrating that the respondent has a ministerial duty to perform the act sought to be compelled via mandate. (*Riverside Sheriff's Assn. v. County of Riverside* (2003) 106 Cal.App.4th 1285, 1289.) And mandamus may only be used to compel the performance of purely ministerial duties, not ones mixed with discretionary power or the exercise of judgment. (*Mooney v. Garcia* (2012) 207 Cal.App.4th 229, 232-233.) “Where a statute leaves room for discretion, a challenger must show the official acted arbitrarily, beyond the bounds of reason or in derogation of the applicable legal standards.” (*Excelsior College v. Cal. Bd. of Registered Nursing* (2006) 136 Cal.App.4th 1218, 1239.)

Even duties that have been described as ministerial still require the Secretary to exercise some degree of discretion. For instance, in *Rixford v. Jordan*, although this Court observed that the Secretary has a “ministerial” duty to file articles of incorporation, he does so only after determining that a proposed incorporated name is not likely to mislead or deceive the public. (*Rixford, supra*, 214 Cal. at p. 555.) Similarly, in *Cranford v. Jordan*, this Court confirmed that the Corporations Code vests the Secretary with “a certain discretionary power” to determine whether two corporate names were so similar as to mislead or deceive the public. (*Cranford v. Jordan* (1936) 7 Cal.2d 465, 467) This Court relied on *Rixford* to support its conclusion in *Cranford* that where there is a reasonable basis for the action

of a public officer possessing discretionary power, a court cannot substitute its judgment for his. (*Ibid.*)

Petitioners repeatedly assert that the Secretary is “required” to place the names of all “recognized candidates” on the presidential primary ballot (see, e.g., Petn. for Writ of Mandate, p. 29), and can be mandated to do so if, for example, he fails “to identify and place names of any Presidential candidates other than himself on the ballot.” (Petns.’ Reply to Prelim. Opp’n, at p. 5, citing *LaRouche v. Eu*, *supra*.) Petitioners’ arguments put the cart before the horse. Although the Secretary may indeed have a ministerial duty to place names of “recognized candidates” on the ballot, that duty arises only *after* he engages in the non-ministerial task of determining who might be deemed a “recognized candidate throughout the nation or throughout California for the office of President of the United States.” (Cal. Const., art. II, § 5(c).) Because determining who might be a “recognized candidate” requires, by its very terms, the exercise of discretion, section 5(c) is not self-implementing. (See *Rixford*, *supra*, 214 Cal. at 555.)

The Secretary’s duties under section 5(c) are not entirely ministerial, and require some degree of discretion. Because there is no purely ministerial duty that can be mandated by this Court, petitioner’s writ must be denied.

**B. Because It Is Not Self-Implementing, Section 5(C) Anticipates Additional Legislation.**

“A constitutional provision [is] self-executing if it supplies a sufficient rule by means of which the right given may be enjoyed and protected, or the duty imposed may be enforced ....” (*Western Assn., etc., R.R. v. Railroad Com.* (1916) 173 Cal. 802, 804.) Stated another way, a constitutional provision is self-executing, or self-implementing, “if no legislation is necessary to give effect to it, and if there is nothing to be done

by the Legislature to put it into operation. A constitutional provision contemplating and requiring legislation is not self-executing.” (*Taylor v. Madigan* (1975) 53 Cal.App.3d 943, 951.) Even when a constitutional provision can be considered self-executing, or self-implementing, the Legislature may still enact legislation to facilitate the exercise of the powers directly granted by the Constitution. (*Chesney v. Byram* (1940) 15 Cal.2d 460, 463; see also *Flood, supra*, 80 Cal.App.3d at p. 154.)

Against this backdrop—and contrary to petitioners’ argument that the Secretary has “exclusive delegated authority” to find and place candidates on California primary ballots” (Petns.’ Reply, at pp. 5-6)—“it is clear that section 5 of Article II is the type of constitutional provision which requires legislative implementation, and consequently [is not] self-executing.” (62 Ops.Cal.Atty.Gen. 386, 389 (1979) (determining that “minority presidential parties” and their candidates may not participate in primary elections unless the party is qualified under the Elections Code).) This conclusion is unchanged by the Secretary’s duty to find and place candidates on primary ballots: “a [constitutional] provision may be mandatory without being self-executing.” (*Taylor, supra*, 53 Cal.App.3d at 951; see also *Bergevin v. Curtz* (1899) 127 Cal. 86, 88 “[T]he legislature has the power to enact reasonable provisions for the purpose of requiring persons who are electors, and who desire to vote, to show that they have the necessary qualifications.”])

Indeed, section 5(c) has long relied on implementing legislation. Several laws have been passed without challenge since 1972 to assist in identifying “recognized candidates.” (See Elec. Code §§ 6041, 6340, 6520, 6720, 6851 [directing which candidates can be placed on the five qualified political parties’ primary ballots].) The Secretary’s historical criteria for recognizing primary candidates is consistent with—and does not undermine—the Legislature’s longstanding authority in this space. On the

contrary, the Secretary and the Legislature have worked together to bolster such statutory authority where appropriate. In 2019, given the continued “lack of statutory guidance to provide potential candidates transparency in the process in regards to whom the [Secretary of State] recognizes as a presidential candidate,” Secretary Padilla sponsored SB 505, under which the Legislature enacted Elections Code section 6000.1. (Sen. Comm. on Elec. and Const. Amends., Mar. 25, 2019, p. 5, attached as exhibit R.) Under this bill, the Legislature—under its plenary power to “provide for partisan elections”—provided clear statutory authority to the Secretary concerning who should be found as a “recognized candidate” eligible for placement on a presidential primary ballot. The Legislature exercised that same power, and furthered its legitimate legislative goal of ensuring that its voters make informed, educated choices in the voting booth (Elec. Code § 6881), by passing SB 27 and enacting Elections Code section 6883 with the Secretary’s support. (See Sen. Comm. on Elec. and Const. Amends., Mar. 11, 2019, p. 6, attached as exhibit T.)

Like SB 505, SB 27 reflects an exercise of the Legislature’s longstanding, plenary power to “provide for partisan elections” under section 5(c). Section 5(c) preserved this longstanding power, and the Legislature may enact further statutes to guide the Secretary in determining who may be placed on those ballots. This, too, underscores the conclusion that the petition should be denied.



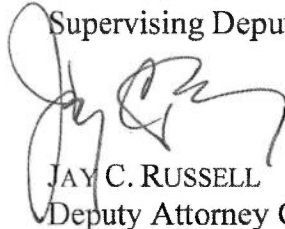
**CONCLUSION**

For the foregoing reasons, the Court should deny the petition.

Dated: September 5, 2019

Respectfully submitted,

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Secretary of State Alex Padilla*

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## DECLARATION OF JAY C. RUSSELL

I, Jay C. Russell, declare:

1. I am an attorney admitted to practice before the courts of the State of California and before this Court. I am employed by the California Attorney General's Office, and am counsel for Respondent California Secretary of State Alex Padilla. I have personal knowledge of the matters set forth in this declaration, and would testify to the same if called upon by the Court.

2. Attached to the respondent's Response to Order to Show Cause are true and correct copies of the following exhibits:

A. Senate Bill Number 586 from the California Legislature's 1967 Regular Session, maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Box 1, Folder 24.

B. Senator Alfred Alquist's March 8, 1967 press release, maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Box 1, Folder 24.

C. Senate Bill Number 145 from the California Legislature's 1968 Regular Session, maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Box 2, Folder 73.

D. Governor Ronald Reagan, letter to Members of the Senate, dated August 22, 1968, maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Box 2, Folder 73.

E. Governor Ronald Reagan, letter to Members of the Senate dated September 4, 1969, maintained at San José State University's Special

Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Box 3, Folder 121.

F. Governor Ronald Reagan, letter to Members of the Senate dated December 30, 1971, maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Boxes 5-6, Folder 237.

G. 1970 Final Calendar of Legislative Business, p. 362, maintained at <<https://clerk.assembly.ca.gov/content/california-state-assembly-and-senate-final-history-%E2%80%931970-session>> (last accessed September 1, 2019.)

H. Senate Constitutional Amendment 3 (Alquist Papers, Collection Number MSS.1996.11.01, Boxes 5-6, Folder 309.), maintained by the Secretary of State.

I. Assembly Committee on Elections and Constitutional Amendments Analysis of SCA 3 (Alquist) (1970), maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Boxes 5-6, Folder 309.

J. Excerpts of the Proposed Revision of the California Constitution by the California Constitution Revision Commission, 1970, Part 2.

K. Senate Constitutional Amendment 3 (Regular Session 1971, res. ch. 274, p. 4868), maintained by the Secretary of State.

L. Assembly Committee on Elections and Reapportionment Analysis of SCA 3 (1971), maintained at San José State University's Special Collections and Archives, Alfred E. Alquist Papers, Collection Number MSS.1996.11.01, Boxes 5-6, Folder 309.

M. Assembly Committee on Elections and Constitutional Amendments Analysis of SCA 3 (Alquist) (1971) dated November 3, 1971, maintained by the Secretary of State.

N. November 1972 Voter Information Pamphlet, maintained by the University of California, Hastings College of Law, UC Hastings Scholarship Repository, at [https://repository.uchastings.edu/ca\\_ballot\\_props/774/](https://repository.uchastings.edu/ca_ballot_props/774/) (last accessed Sept. 1, 2019.)

O. Press Release of the Office of the Secretary of State, January 10, 1976, maintained by the Secretary of State.

P. Press Release of the Office of the Secretary of State, January 30, 1980, maintained by the Secretary of State.


Q. Press Release of the Office of the Secretary of State, January 29, 1988, maintained by the Secretary of State.

R. Press Release of the Office of the Secretary of State, January 31, 1992, maintained by the Secretary of State.

S. Senate Committee on Elections and Constitutional Amendments Analysis of SB 505 (2019) dated March 25, 2019, maintained by the Secretary of State.

T. Senate Committee on Elections and Constitutional Amendments Analysis of SB 27 (2019) dated March 11, 2019, maintained by the Secretary of State.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Signed September 5, 2019 in San Francisco, California.



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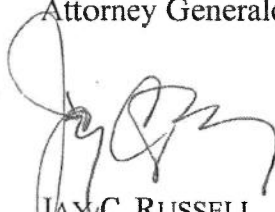
JAY C. RUSSELL

**CERTIFICATE OF COMPLIANCE**

I certify that the attached RESPONDENT CALIFORNIA  
SECRETARY OF STATE ALEX PADILLA'S RESPONSE TO ORDER  
TO SHOW CAUSE uses a 13 point Times New Roman font and contains  
8,160 words.

Dated: September 5, 2019

XAVIER BECERRA  
Attorney General of California



JAY C. RUSSELL  
Deputy Attorney General  
*Attorneys for Respondent California  
Secretary of State Alex Padilla*

# **EXHIBIT A**

Introduced by Senator Alquist

March 14, 1967

REFERRED TO COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

An act to repeal Chapter 1 (commencing with Section 6000) of Division 5 and to add Chapter 1 (commencing with Section 6000) to Division 5, of the Elections Code, relating to the presidential primary election.

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

- 1 SECTION 1. Chapter 1 (commencing with Section 6000) of
- 2 Division 5 of the Elections Code is repealed.
- 3 SEC. 2. Chapter 1 (commencing with Section 6000) is
- 4 added to Division 5 of the Elections Code, to read:
- 5
- 6 CHAPTER 1. PRESIDENTIAL PRIMARY
- 7
- 8 Article 1. General Provisions
- 9
- 10 6000. This chapter applies to all qualified political parties.
- 11 6001. The provisions of this code relating to the direct

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as introduced, Alquist (Elec. & Reap.). Presidential primary. Repeals, adds Ch. 1 (commencing with Sec. 6000), Div. 5, Elec.C. Deletes present provisions dealing with delegates and candidates in the presidential primary, and, instead, provides that voters of qualified political parties may express preference among candidates found by Secretary of State to be nationally recognized candidates for offices of President and Vice President of United States or who place names on ballot by means of petition. Permits any such candidate to withdraw by filing affidavit that he is not candidate. Provides that for each party two delegates to national convention shall be selected from each congressional district and the remainder from the state at large, instead of by slates selected by three-man committees.

Requires each candidate for delegate to take pledge that he will support presidential candidate preferred by voters for first 2 convention ballots, unless released by candidate or unless candidate receives less than 35 percent of convention votes on first ballot. Vote—Majority; Appropriation—No; State Expense—Yes.

1 primary apply to the presidential primary insofar as the  
2 former do not conflict with the latter.

3  
4 Article 2. Selection of Nominees

5  
6 6050. When candidates for the offices of President and Vice  
7 President of the United States are to be nominated, each voter  
8 of a qualified political party shall have the opportunity to  
9 vote his preference on his primary election ballot for one per-  
10 son to be the candidate for nomination by his party for Presi-  
11 dent and one person for Vice President of the United States.

12 6051. The name of any candidate for a qualified political  
13 party nomination for President or Vice President of the  
14 United States shall be printed on the ballots only:

15 (a) By direction of the Secretary of State, who shall place  
16 the name of such a candidate upon the ballot when he shall  
17 have determined in his sole discretion that such candidate's  
18 candidacy is generally advocated or recognized in national  
19 news media throughout the United States, unless such candi-  
20 date shall execute an affidavit stating without qualification  
21 that he is not now and does not intend to become a candidate  
22 for such offices at the forthcoming presidential election.

23 (b) Upon the filing of a petition signed by not less than  
24 1,000 voters registered as affiliated with the qualified political  
25 party of the candidate. The petition shall also contain the resi-  
26 dence address and precinct number of each voter whose signa-  
27 ture appears thereon.

28 A petition circulated pursuant to this subdivision shall be  
29 in sections, and each section shall bear only the names of voters  
30 registered in the county in which it is circulated. Each section  
31 of the petition, properly prepared, circulated, signed and veri-  
32 fied shall be left, for examination, with the county clerk of the  
33 county in which it was circulated, at least 60 days prior to  
34 the presidential primary. The county clerk, within five days,  
35 shall forward the section to the Secretary of State. Upon  
36 receipt of a sufficient number of signatures, the Secretary of  
37 State shall notify the county clerks of that fact, and they need  
38 not forward any more sections of the petition. The Secretary  
39 of State shall certify the names of such candidates for Presi-  
40 dent and Vice President to the county clerks for printing on  
41 the ballots in the same manner as he certifies the names of  
42 candidates for state offices.

43 6052. If any candidate files with the Secretary of State, not  
44 less than 55 days before the presidential primary, an affidavit  
45 stating without qualification that he is not now and does not  
46 intend to become a candidate for the office of President or Vice  
47 President of the United States at the forthcoming presidential  
48 election, his name shall be omitted from the list of names certi-  
49 fied by the Secretary of State to the county clerks and his name  
50 shall not appear on the ballot.

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1 6053. The names of the candidates for qualified political  
2 party nominations for President and Vice President of the  
3 United States shall be printed on the official ballots for the  
4 primary elections of their respective parties, and shall be  
5 marked, counted, canvassed, returned, and proclaimed in the  
6 same manner and under the same conditions, so far as the  
7 same are applicable, as the names of candidates for state offices.

8  
9 Article 3. Selection of Delegates to National  
10 Party Conventions

11  
12 6100. In the years when a President and Vice President of  
13 the United States are to be elected, the voters of each qualified  
14 political party shall elect delegates to their national conven-  
15 tions.

16 6101. As soon as possible after the national committees  
17 issue their official calls for national nominating conventions,  
18 the Secretary of State shall ascertain from the proper officials  
19 of the committees the number of delegates allotted to the State  
20 of California. Of the number of delegates allotted, two shall  
21 be elected from each congressional district and the remainder  
22 from the state at large. In the arrangement of the official bal-  
23 lots for the primary election of each party, the county clerks  
24 shall provide for the election of two delegates from each con-  
25 gressional district and the remainder from the state at large.

26 6102. Candidates for the office of delegate to a national  
27 convention may have their names placed on the official ballots  
28 for the primary election of their party in the same manner  
29 as candidates for nomination for other state and district of-  
30 fices. Existing laws providing the manner in which the names  
31 of candidates for nomination for state and district offices may  
32 be printed on the ballots shall govern, except that not less  
33 than 250 signatures shall be required on a nominating petition  
34 for a candidate for delegate from a congressional district and  
35 not less than 1,000 signatures for a candidate for delegate  
36 from the state at large. Signatures on a nominating petition  
37 for a candidate for delegate from the state at large shall be  
38 obtained from at least 10 counties.

39 6103. Every voter of a qualified political party may vote  
40 his preference on the official ballot of his party for two dele-  
41 gates from the congressional district in which he resides and  
42 for as many delegates as are to be elected at large. A plurality  
43 vote shall be sufficient to elect a delegate to any national con-  
44 vention, and the allotted number of candidates receiving the  
45 highest number of votes shall be chosen in each congressional  
46 district and in the state at large.

47 6104. The nomination papers of a candidate for election  
48 as delegate to a national party convention shall include a  
49 pledge that such candidate, if elected, will use his best efforts  
50 at the convention for the candidate of his party for the office  
51 of President of the United States who receives the highest

1 number of votes at the primary election until such candidate  
2 for President of the United States is nominated by such con-  
3 vention, receives less than 35 percent of the votes for nomina-  
4 tion by such convention or releases the delegate from such  
5 pledge or until two convention nominating ballots have been  
6 taken.

) O

# **EXHIBIT B**

From the Office of:  
ALFRED E. ALQUIST  
SENATOR, 13th DISTRICT  
5031 State Capitol  
445-9740

3/8/67

FOR IMMEDIATE RELEASE

Senator Alfred E. Alquist (D-San Jose) today announced he will introduce legislation to establish open presidential primaries in California.

He said his bill will be patterned after the "Oregon Plan", by which the Secretary of State is required to list the prominently mentioned presidential candidates of both parties on the June primary ballot.

Listed persons may have their names removed by request, stating they are not candidates.

"It's time the voters be given a voice in the selection of presidential nominees. In effect, the voters are disenfranchised in California primaries by favorite son slates", Alquist said. He predicted that unless the law is changed, Republicans will have no choice but to vote for Ronald Reagan as favorite son with power to cast the state's entire vote for whomever he pleases at the party convention next year.

Alquist challenged Governor Reagan to explain on television to the people of California why he opposes the "Oregon Plan" and instead wants to head the state's Republican delegation as a favorite son candidate.

In his press conference last Tuesday Governor Reagan came out against the "Oregon Plan", but gave no reasons.

"This is in direct contradiction to Governor Reagan's campaign promise to return the government to the people," Alquist said. "Now it appears he doesn't trust his fellow Californians to help choose the presidential nominees."

(more)

Box 1  
SB 586 - PRESIDENTIAL PRIMARIES  
1967  
SERIES I: BILL FILE

Democrats are likely to have their choice of two slates of electors--both pledged to support President Johnson.

"In either case, the rank-and-file California voter won't have a thing to say about whom their party nominees are for President," Alquist declared, "but the people of Oregon and other states will".

o o o

# **EXHIBIT C**

AMENDED IN ASSEMBLY JULY 17, 1968  
AMENDED IN ASSEMBLY JUNE 17, 1968

SENATE BILL

No. 145

Introduced by Senators Alquist, Danielson, Mills, and Sherman  
(Coauthors: Assemblymen Fenton and Milias)

January 30, 1968

REFERRED TO COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

*An act to amend Sections 10261, 10262, 10263, 10264, and 10265 of, to repeal Chapter 1 (commencing with Section 6000) of Division 5, and to add Chapter 1 (commencing with Section 6000) to Division 5 of the Elections Code, relating to the presidential primary election.*

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

- 1 SECTION 1. Chapter 1 (commencing with Section 6000) of  
2 Division 5 of the Elections Code is repealed.  
3 SEC. 2. Chapter 1 (commencing with Section 6000) is  
4 added to Division 5 of the Elections Code, to read:  
5  
6 CHAPTER 1. PRESIDENTIAL PRIMARIES  
7  
8 Article 1. General Provisions  
9  
10 6000. This chapter applies to all political parties qualified  
11 to participate in direct primary elections pursuant to Section  
12 6430.  
13 6001. The provisions of this code relating to the direct  
14 primary election apply to the presidential primary election  
15 insofar as the former do not conflict with the latter.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 145, as amended, Alquist (Elec. & Reap.). Presidential primary. Repeals, adds Ch. 1 (commencing with Sec. 6000), Div. 5, Elec.C.

Deletes present provisions dealing with delegates and candidates in the presidential primary. Provides that candidates on the ballot will be those found by Secretary of State to be nationally recognized candidates for office of President of United States or those whose names are placed on ballot by means of petition. Permits any such candidate to withdraw by filing affidavit that he is not candidate.

Article 2. Selection of Nominees

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2  
3 6050. When candidates for the office of President of the  
4 United States are to be nominated, each voter of a political  
5 party shall have the opportunity to vote his preference on his  
6 presidential primary election ballot for one person to be the  
7 candidate of his party for President of the United States.

8 6051. The name of a candidate for the nomination for  
9 President of the United States by a political party shall be  
10 printed on the presidential primary ballots pursuant to Sec-  
11 tions 6052 or 6053 only.

12 6052. The Secretary of State shall place the name of a can-  
13 didate upon the presidential primary ballot when the Secre-  
14 tary of State shall have determined in his sole discretion that  
15 such a candidate is generally advocated for or recognized in  
16 the news media throughout the United States as actively  
17 seeking his party's nomination for President of the United  
18 States.

19 On or before February 1 immediately preceding a presiden-  
20 tial primary election the Secretary of State shall publicly an-  
21 nounce and distribute to the newspapers for publication a list  
22 of the candidates he intends to place on the ballot at the fol-  
23 lowing presidential primary election. Following this announce-

Establishes number of signatures needed on petition in various cir-  
cumstances, including new parties. Prohibits more than 1,000 2,500  
signatures coming from any one county. Prohibits circulation of peti-  
tion prior to January 1 of a presidential election year and requires it  
to be filed 75 days before the election.

Requires Secretary of State to notify each candidate that he places  
on the ballot and for whom he receives a petition or portion thereof  
that his name will appear on the California presidential primary bal-  
lot for his party.

Requires a party's delegation to its national convention to be selected  
by the presidential nominee candidate or, if there is none, by the state  
convention of the party. Requires delegation selected by the state con-  
vention to include national committeeman and committeewoman and to  
be distributed by congressional districts according to the present  
formula. Requires state convention to meet on first Saturday in July  
and to name its delegation by 6 p.m. of the following day.

Binds delegation to the party's presidential nominee candidate from  
California for two ballots, until he is nominated for the office of Presi-  
dent, until he releases the delegation, or until he receives less than 35  
percent of the vote on a ballot. Provides that the party's presidential  
nominee candidate from California is that candidate who received the  
highest number of votes and who received more than 40 percent of the  
vote in his party's presidential primary in California.

Provides that, if no candidate satisfies the requirement for a presi-  
dential nominee candidate from California, the delegation will not  
be bound to any candidate.

Makes technical changes in presidential primary ballot.

Vote—Majority; Appropriation—No; Fiscal Committee—Yes.

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1 ment he may add candidates to his selection, but he may not  
2 delete any candidate whose name appears on the announced  
3 list.

4 6053. The Secretary of State shall place the name of a candi-  
5 didate for the nomination for the President of the United  
6 States on the presidential primary ballot when the Secretary  
7 of State shall have received a petition satisfying the require-  
8 ments of Sections 6054, 6055, 6056, 6057, 6058, 6059.

9 6054. A petition requesting the Secretary of State to place  
10 the name of a candidate on the ballot of a presidential pri-  
11 mary shall:

12 (a) Be entitled on each page "A Petition to Place (name  
13 of candidate) in the Presidential Primary Election";

14 (b) Contain the residence address and precinct number of  
15 each voter whose signature appears on the petition ;

16 (c) Be circulated in sections with each section bearing only  
17 the names of voters registered in the county in which it is  
18 circulated; and

19 (d) Contain for each section of the petition an affidavit sub-  
20 stantially identical to that provided in Section 6507 signed  
21 by the circulator of each section of the petition.

22 6055. A petition shall be signed by at least one-half of 1  
23 percent and not more than 2 percent of whichever of the fol-  
24 lowing is appropriate:

25 (a) The vote polled for the party's candidate for Governor  
26 at the last preceding general election at which a Governor was  
27 elected, if a party's candidate for Governor was the candidate  
28 of the party alone;

29 (b) The vote polled at the last preceding general election by  
30 that one of the party's candidates voted on throughout the  
31 state who received the greatest number of votes of all of the  
32 party's candidates who were the candidates of that party alone,  
33 if a party's candidate for Governor was not the candidate of  
34 that party alone;

35 (c) The vote polled at the last preceding general election by  
36 that one of the party's candidates voted on throughout  
37 the state who received the greatest number of votes of all the  
38 party's candidates who were the candidates of the party in  
39 conjunction with one or more other parties, if a party had no  
40 candidate voted on throughout the state who was the candidate  
41 of that party alone.

42 6056. A petition to place a candidate on the presidential  
43 primary ballot of a party which did not have a candidate voted  
44 on throughout the state at the last preceding general election  
45 shall be signed by persons equal in number to 10 percent of the  
46 persons registered as affiliated with that party on the January  
47 1 immediately preceding the presidential primary.

48 6057. No more than ~~1,000~~ 2,500 signatures shall be obtained  
49 from any one county.

50 6058. Each section of a petition must be signed and dated  
51 by the county clerk in the county in which it is to be circulated

1 before it may be circulated. No section shall be signed by the  
 2 county clerk before January 1 immediately preceding the  
 3 presidential primary election for which it is to be circulated.  
 4 6059. Each section of the petition, properly prepared, cir-  
 5 culated, signed and verified shall be left, for examination, with  
 6 the county clerk of the county in which it was circulated, at  
 7 least 75 days prior to the presidential primary. The county  
 8 clerk, within seven days, shall forward the section to the Sec-  
 9 retary of State together with a certificate as to the number of  
 10 valid signatures appearing on it. Upon receipt of a sufficient  
 11 number of signatures, the Secretary of State shall notify the  
 12 county clerks of that fact, and they need not forward any more  
 13 sections of the petition.

14 6060. When the Secretary of State decides to place the  
 15 name of a candidate on the ballot pursuant to Section 6052 or  
 16 receives a section of a petition pursuant to Section 6056, he  
 17 shall notify the candidate that his name will appear on the  
 18 ballot of this state in the presidential primary election and  
 19 that he may withdraw his name by filing with the Secretary  
 20 of State an affidavit pursuant to Section 6058 6061 no later  
 21 than the 60th day before that election.

22 6061. If any candidate files with the Secretary of State,  
 23 no later than the 60th day before the presidential primary, an  
 24 affidavit stating without qualification that he is not now and  
 25 does not intend to become a candidate for the office of Presi-  
 26 dent of the United States at the forthcoming presidential elec-  
 27 tion, his name shall be omitted from the list of names certified  
 28 by the Secretary of State to the county clerks and his name  
 29 shall not appear on the ballot.

30 6062. No later than the 59th day before a presidential pri-  
 31 mary election, the Secretary of State shall certify the official  
 32 and final list of the names of candidates for the nomination for  
 33 President to the county clerks for printing on the ballots in  
 34 the same manner as he certifies the names of candidates for  
 35 state offices.

36 Article 3. Nomination

37  
 38 6100. The names of the candidates for nomination for Pres-  
 39 ident of the United States by a political party shall be printed  
 40 on the official ballots for the primary elections of their respec-  
 41 tive parties, and shall be marked, counted, canvassed, returned,  
 42 and proclaimed in the same manner and under the same con-  
 43 ditions, so far as the same are applicable, as the names of  
 44 candidates for state offices.

45 6101. Each candidate who receives the highest number of  
 46 votes in the presidential primary election of his party and who  
 47 receives more than 40 percent of the votes cast on that election  
 48 shall be declared his party's presidential nominee candidate  
 49 from California.

50 6102. If no candidate in a political party meets the require-  
 51 ments of Section 6101, there shall be no presidential nominee  
 52 candidate from California for that party.

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Article 4. Delegates to National Party Conventions

6150. This article is applicable with respect to a political party only if a candidate meets the requirements of Section 6101, in which case Article 5 (commencing with Section 6175) of this chapter is not applicable to that party.

6151. Each party's presidential nominee candidate from California shall determine the members of his party's delegation from this state to the party's national convention.

6152. The determination of membership shall be made by each such nominee on or before the first Saturday in July.

Article 5. Delegates to National Party Conventions

6175. This article is applicable with respect to a political party only if there is no presidential nominee candidate from California for that party, in which case Article 4 (commencing with Section 6150) of this chapter is not applicable to that party.

~~6200.~~

6176. The state convention of each political party as formed by the provisions of Division 6 (commencing with Section 8000) of this code shall meet on the first Saturday in July following a presidential primary election or, if Independence Day occurs on the first Saturday or first Sunday of July, the convention shall convene on the second Saturday in July.

~~6201.~~

6177. The meeting of each political party shall convene at an hour and in a place designated by the executive committee of the state central committee of that political party.

~~6202.~~

6178. The provisions of Division 6 (commencing with Section 8000) of this code relating to the state conventions of political parties, except for Section 8011, apply to this meeting of state conventions insofar as the former do not conflict with the latter.

~~6203.~~

6179. This meeting of the state convention may transact only the following business:

- (a) It may elect a chairman for the purpose of this meeting.
- (b) It may establish a committee on credentials and may accept or reject the credentials of any delegate.
- (c) It shall determine the members of the party's delegation to its national convention.
- (d) It may transact any other business necessary to the accomplishment of subdivision (a), (b) or (c).

~~6204.~~

Article 6. Rules Governing Delegations

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6200. This article is applicable whether delegates are selected by the presidential nominee candidate from California or whether such delegates are selected by the state convention.

6201. Each delegation to a national convention from this state shall consist of the national committeeman and national committeewoman of that party from this state and such other members as the presidential nominee candidate or the state convention shall select and shall be limited to that number of members permitted by the national committee of that political party.

~~6205.~~

6202. The members of the delegation shall be so selected that the smallest number of candidates who reside in any one congressional district shall not be less than the integer of the quotient obtained by dividing the total number of delegates permitted by the total number of congressional districts of the state, and that the largest number of candidates who reside in any one congressional district shall not be greater than twice that integer. In any county in which are located two or more entire congressional districts the delegates may be selected from the county at large.

~~6206.~~

6203. By no later than 6 o'clock of the afternoon of the following day after the members are determined, the members of the delegation and their addresses shall be made public and a certified copy of this information shall be forwarded to the Secretary of State.

~~6207.~~

6204. The Secretary of State shall notify as soon as possible each member of the delegation of each political party of his selection as a delegate to that party's national convention and of the time and place of the convening of that convention.

~~6208.~~

6205. The delegates to each national party convention shall meet together and select a chairman of the delegation before leaving the state to attend the convention or, if that is not possible, at some time before the opening of the convention.

~~6209.~~

6206. If a vacancy exists in the office of delegate or alternate, the chairman of the delegation shall designate a person to fill that vacancy.

~~6210.~~

6207. The alternate of any delegate who is unable to attend the convention shall attend the convention in his place and shall otherwise discharge the duties of that delegate. An alternate shall not vote in place of the delegate whom he represents when the delegate is occupying his seat at the convention.

1 ~~6211.~~

2 6208. Each delegate to a national convention shall use his  
3 best efforts at the convention for that party's presidential  
4 nominee candidate from California until such person is nom-  
5 inated for the office of President of the United States by such  
6 convention, receives less than 35 percent of the votes for nom-  
7 ination by such convention, releases the delegate from this  
8 obligation, or until two convention nominating ballots have  
9 been taken.

10 SEC. 3. Section 10261 of the Elections Code is amended  
11 to read:

12 10261. The names of the candidates for nomination for  
13 President of the United States selected pursuant to Article 2  
14 (commencing with Section 6050) of Chapter 1 of Division 5  
15 of this code shall be arranged upon the ballot of the party in  
16 a column 2½ inches wide. The names of the candidates shall  
17 be listed alphabetically.

18 SEC. 4. Section 10262 of the Elections Code is amended  
19 to read:

20 10262. At the right of the name of the candidate for the  
21 nomination for President there shall be a voting square three-  
22 eighths of an inch square.

23 SEC. 5. Section 10263 of the Elections Code is amended  
24 to read:

25 10263. At the top of the ballot shall be printed "Official  
26 presidential primary election ballot," and the instructions to  
27 voters shall be as follows: "To vote for a candidate for the  
28 nomination for President, stamp a cross (+) in the square  
29 opposite the name of the candidate preferred."

30 SEC. 6. Section 10264 of the Elections Code is amended  
31 to read:

32 10264. There shall be printed in heavy-face 12-point, gothic  
33 type, across the page above the names of the candidates for  
34 the nomination for President, the words, "For the candidate  
35 to be supported by the delegates to the national convention.  
36 Vote for one candidate only."

37 SEC. 7. Section 10265 of the Elections Code is amended to  
38 read:

39 10265. The ballot shall be printed substantially in the fol-  
40 lowing form:

41 OFFICIAL PRESIDENTIAL PRIMARY  
42 ELECTION BALLOT  
43 Republican Party  
44 Fifty-Seventh Assembly District,  
45 June --, 19--

46  
47 To vote for the candidate for the nomination for President,  
48 stamp a cross (+) in the square opposite the name of the  
49 candidate preferred.  
50

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3	FOR THE CANDIDATE TO BE SUPPORTED	Vote for one candidate only
4	BY DELEGATES TO THE NATIONAL	
5	CONVENTION	
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8	WILLIAM ADAMS	
9	JOE BLACK	
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11	HENRY JACKSON	
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13	JOHN P. MONROE	
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# **EXHIBIT D**



# State of California

GOVERNOR'S OFFICE  
SACRAMENTO 95814

RONALD REAGAN  
GOVERNOR

August 22, 1968

The Honorable Members of the Senate  
State of California  
Sacramento, California

Greetings:

I am returning without my signature Senate Bill No. 145, entitled, "An act to amend Sections 10261, 10262, 10263, 10264, and 10265 of, to repeal Chapter 1 (commencing with Section 6000) of Division 5, and to add Chapter 1 (commencing with Section 6000) of Division 5 of the Elections Code, relating to the presidential primary election.

This bill provides that candidates on the presidential primary ballot will be those found by the Secretary of State to be nationally recognized candidates for the office of President or those persons whose names are placed on the ballot by means of petition. Any such person may withdraw by filing an affidavit that he is not a candidate.

SB 145 adds nothing to the democratic process. It is, in fact, an infringement on the rights of certain individuals. It limits the people's responsibility by placing the responsibility for putting names on the California presidential ballot on the shoulders of one man. This is considerably less desirable than California's present open primary method which requires a significant number of persons to show an interest in a man's candidacy before his name can be placed on the ballot.

The proposed bill, if it were to become law, would place prominent political figures in awkward positions by forcing them to make decisions they might not wish to make, decisions that no one man has the moral right to force them to make. Further, the proposed new method forces a man to accept the alternatives of either raising money and campaigning against his will or accepting political defeat.

The proposed legislation will tend to divide and splinter our major political parties. The strong, stable two-party system we have developed in our country is one of the cornerstones of American Democracy. Legislation that weakens this system should be avoided. Accordingly, I am returning the bill unsigned.

Respectfully,

RONALD REAGAN  
Governor

cc: ✓ The Honorable Alfred E. Alquist  
Department of Finance

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# **EXHIBIT E**

# State of California

GOVERNOR'S OFFICE  
SACRAMENTO 95814

September 4, 1969



RONALD REAGAN  
GOVERNOR

September 4, 1969

The Honorable Members of the Senate  
State of California  
Sacramento, California

**Greetings:**

I am returning without my signature Senate Bill No. 3, "An act to amend Sections 10261, 10262, 10263, 10264 and 10265 of, to repeal Chapter 1 (commencing with Section 6000) of Division 5, and to add Chapter 1 (commencing with Section 6000) to Division 5 of the Elections Code, relating to the presidential primary election.

This bill deletes and amends the present Elections Code provisions dealing with delegates and candidates in the presidential primary. The bill provides that candidates on the ballot will be those found by the Secretary of State to be recognized candidates throughout the nation or California for the office of President of the United States or those whose names are placed on ballot by means of a petition. The bill permits any such candidate to withdraw by filing an affidavit that he is not a candidate.

I am returning this bill unsigned because, although it has been erroneously dubbed an "open primary" bill by some, it would in fact create in California a "compulsory primary" which would force all potential dark-horse candidates to spend enormous sums of money to mount a campaign.

While perhaps benefitting advertising agencies and professional campaign managers, the bill would, in effect, require an entrance fee into the presidential sweepstakes far more onerous than similar laws in such smaller states now impose. The fact is, California already has an "open primary". Any candidate genuinely interested in running for the presidency can enter.

Serious analysis must lead one to the conclusion that the present system in California already provides for direct citizen involvement and is far better than the proposed compulsory system.

But the reasons I have outlined are not the only compelling ones which bear on my decision.

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The Honorable Members of the Senate

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September 4, 1969

This bill delegates to one elected official, the Secretary of State, the authority and responsibility for determining who is or is not a "generally recognized" candidate for his party's nomination for the presidency, at least for purposes of gaining a place on the ballot. I believe that determination should be made by the voters of each party as it is now, through the requirement that supporters of each candidate gather a reasonable number of signatures of registered voters.

If a candidate is, indeed, "generally recognized" as a serious presidential contender, his supporters should have no difficulty in gathering sufficient signatures to place his name on the California ballot. If, on the other hand, they are unable to gather sufficient signatures, that, in itself, would indicate a lack of broad-based appeal.

The present system in California is no handicap to serious candidates, but the petition process does discourage capricious filings for a place on the ballot by publicity seekers.

Contrary to what its advocates contend, the so-called "open primary" system does not guarantee a choice among all potential candidates. One needs look only to the 1968 election year for an example. The eventual nominee of the Democratic party (Hubert H. Humphrey) was not on the ballot in either Oregon or Nebraska, the two states which currently have so-called "open primary" systems.

The news media certainly recognized the former Vice-President as the major candidate for the Democratic nomination for president yet he was not on the ballot in states having the same type of law which this bill proposes.

In conclusion, this legislation fails to provide any compelling alternative to California's present "open primary" system.

Accordingly, I am returning the bill unsigned.

Respectfully,

RONALD REAGAN  
Governor

cc" Alfred Alquist

# **EXHIBIT F**

RONALD REAGAN  
GOVERNOR

State of California  
GOVERNOR'S OFFICE  
SACRAMENTO, 95814

*file*



December 30, 1971

The Honorable Members of the Senate  
State of California  
State Capitol  
Sacramento, California

Greetings:

I am returning without my signature Senate Bill No. 3, entitled, "An act to add Article 3.5 (commencing with Section 6065) to Chapter 1 of Division 5 of the Elections Code, relating to the presidential primary election."

SB 3 provides that candidates on the ballot will be those found by the Secretary of State to be recognized candidates throughout the nation or California for office of President of the United States if they have properly formed a delegation no later than the 74th day before the primary. The bill permits any such candidate to withdraw no later than the 74th day before the primary by filing an affidavit that he is not a candidate.

This bill delegates to one elected official, the Secretary of State, the authority and responsibility for determining who is a generally recognized candidate for his party's nomination for the presidency, at least for purposes of gaining a place on the ballot. I believe that this determination should be made by the voters of each party, as it is now, through the requirement that supporters of each candidate gather a reasonable number of signatures of registered voters.

If a candidate is, indeed, generally recognized as a serious presidential contender, his supporters should have no difficulty in gathering sufficient signatures to place his name on the California ballot. If, on the other hand, they are unable to gather sufficient signatures, that, in itself, would indicate a lack of broad-based appeal.

California's election system already provides for direct citizen involvement. The present system in California in no way handicaps serious candidates who are seeking presidential office and, contrary to what its advocates contend, this measure does not change existing law with respect to requiring a candidate to form a delegation.

Accordingly, I am returning the bill unsigned.

Respectfully,

The Honorable Alfred E. Alquist

RONALD REAGAN  
Governor

# **EXHIBIT G**

1970

# FINAL CALENDAR OF LEGISLATIVE BUSINESS

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CALIFORNIA LEGISLATURE

AT SACRAMENTO  
1970 REGULAR SESSION

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SENATE FINAL HISTORY

SHOWING ACTION TAKEN IN THIS SESSION ON ALL SENATE BILLS,  
CONSTITUTIONAL AMENDMENTS, CONCURRENT, JOINT  
RESOLUTIONS AND SENATE RESOLUTIONS

CONVENED JANUARY 5, 1970  
ADJOURNED SINE DIE SEPTEMBER 23, 1970

DAYS IN SESSION ..... 130  
CALENDAR DAYS ..... 262

Bill Signing Period Expires 12 O'clock Midnight September 20, 1970

Laws Become Effective November 23, 1970

Last Day for Filing Referendum November 22, 1970

---

*President pro Tempore*  
SENATOR JACK SCHRADE

LT. GOVERNOR ED REINECKE  
*President of the Senate*

*Compiled Under the Direction of*  
DARRYL R WHITE  
*Secretary of the Senate*

*by*  
J. ROY GABRIEL  
*History Clerk*

( 8 )



## OFFICERS OF THE SENATE

LIEUTENANT GOVERNOR ED REINECKE  
*President of the Senate*

SENATOR JACK SCHRADE  
*President pro Tempore*

DARRYL R WHITE  
*Secretary of Senate*

P H KENEALY  
*Sergeant at Arms*

REV ROBERT S ROMEIS  
*Chaplain*

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CALIFORNIA LEGISLATURE

AT SACRAMENTO  
1970 REGULAR SESSION

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*Chaplain*

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**SENATE CONSTITUTIONAL AMENDMENTS**


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**SCA 1—Marks and Moscone**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 1e to Article XIII thereof, relating to property tax assessment

Jan 12—Read first time To Com on REV & TAX.  
 Aug 21—From committee without further action.

**SCA 2—Wedworth**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Sections 1d, 1j, 1j<sup>a</sup>, and 1j<sup>b</sup> of Article XIII thereof, relating to property taxation

Jan 12—Read first time To Com on REV & TAX  
 Aug 21—From committee without further action

**SCA 3—Alquist.**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 7 to Article II thereof, relating to elections

Jan 12—Read first time To Com on E & R.  
 Mar 30—From committee Be adopted  
 Mar 31—Re-referred to Com on FIN  
 April 13—From committee Be adopted  
 May 6—Read and adopted To Assembly  
 May 7—In Assembly Read first time Held at desk  
 May 8—To Com, on ELEC & CA  
 Aug 21—From Assembly without further action

**SCA 4—Harmer**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 19 of Article I thereof, relating to search and seizure.

Jan 12—Read first time To Com on JUD  
 Aug 21—From committee without further action

**SCA 5—Marks**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 5 to Article XXVI thereof, relating to motor vehicle taxation and revenues

Jan 13—Read first time  
 Jan 14—To Com on TRANS  
 May 13—From committee with author's amendments. Read second time  
 Amended Re-referred to committee  
 May 19—From committee Be adopted  
 June 30—Read and adopted To Assembly  
 July 1—In Assembly Read first time Held at desk.  
 July 2—To Com on TRANS  
 Aug 21—From Assembly without further action

**SCA 6—Rodda.**

A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by repealing Article XXXIV thereof, relating to public housing

Jan 19—Read first time  
 Jan 20—To Com on L GOV  
 Aug 21—From committee without further action.

# **EXHIBIT H**

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Introduced by Senator Alquist

January 12, 1970

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REFERRED TO COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

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*Senate Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 7 to Article II thereof, relating to elections.*

- 1     *Resolved by the Senate, the Assembly concurring,* That the  
2 Legislature of the State of California at its 1970 Regular Ses-  
3 sion commencing on the fifth day of January, 1970, two-thirds  
4 of the members elected to each of the two houses of the Legis-  
5 lature voting therefor, hereby proposes to the people of the  
6 State of California that the Constitution of the state be  
7 amended by adding Section 7 to Article II thereof, to read:  
8     SEC. 7. The Legislature shall provide for an open presiden-  
9 tial primary whereby the candidates on the ballot are those  
10 found by the Secretary of State to be recognized candidates  
11 throughout the nation or throughout California for the office  
12 of President of the United States, and those whose names are  
13 placed on the ballot by petition, but excluding any candidate  
14 who has withdrawn by filing an affidavit that he is not a  
15 candidate.

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as introduced, Alquist (E. & R.). Open presidential primary.  
Adds Sec. 7, Art. II, Cal. Const.

Requires Legislature to provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.

Vote— $\frac{2}{3}$ ; Appropriation—No; Sen. Fin.—Yes; W. & M.—Yes.

# **EXHIBIT I**

ANALYSIS - SCA 3 (ALQUIST)

SUBJECT: Open Presidential Primary

SUMMARY:

Requires the Legislature to provide for an open presidential primary incorporating the key provisions of SB 3, i.e., selection of candidates by the Secretary of State based on national or state-wide recognition in the news media, in addition to the present petition procedure, and allowance for withdrawal by the candidate.

COMMENT:

1. Is this constitutional amendment necessary -- either as a grant or limitation of legislative power? The constitution already expressly provides for legislative power over primaries (Art. 2, sec. 2.5). This SCA would limit legislative discretion by requiring an open primary even though, in the future, another system might seem preferable.
2. Is this provision proper -- as a matter of fundamental law?
3. The author's intent is to allow the voters to express their opinion on whether California should adopt an open presidential primary. An alternative method -- draft a bill placing an advisory vote on the question on the ballot.



# **EXHIBIT J**

STATE OF CALIFORNIA

**CALIFORNIA CONSTITUTION  
REVISION COMMISSION**

**PROPOSED REVISION**

of

ARTICLE II  
ARTICLE XIV  
ARTICLE XV  
ARTICLE XXI  
ARTICLE XXIII  
ARTICLE XXVII  
ARTICLE XXXIV

of the

**CALIFORNIA CONSTITUTION**



1970

California Constitution Revision Commission  
Suite 1065, State Building  
San Francisco, California

**PROPOSED REVISION**  
**OF**  
**ARTICLE II**

**ARTICLE II**  
**REVISED PROVISIONS**

**Voting**

**Proposed Constitution**

**Section 1**

Sec. 1. A United States citizen 19 years of age and resident in this State may vote. The Legislature shall define residence, prescribe minimum periods of residence, and provide for registration and free elections.

**Existing Constitution**

**Section 1, first part**

Section 1. Every native citizen of the United States of America, every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct fifty-four days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within fifty-four days, or any person duly registered as an elector in any county in California and removing therefrom to another county in California within ninety days prior to an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; . . . .

**Section 1, clause 5**

. . . provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on the day on which any election is held.

**Section 5**

Sec. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; [provided, that secrecy in voting be preserved.] \*

**Article XX, part of Section 11**

. . . The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon . . . .

\* Bracketed portions of Section 5 are not pertinent to revised Section 1 but are treated with revised Section 2.

**Comment:** Proposed Section 1 like Section 1 of the existing Constitution provides the basic qualifications for voters: citizenship, age, residence, and registration. Simplification in the revised Section has been achieved by leaving to legislative prescription such matters as state and local residence requirements, removal of voters from one precinct or county to another, registration, and absentee balloting. These matters are more suitable for detailed statutory treatment than for statement in the Constitution. Moreover, these matters already appear in statutory form in the Elections Code.

Reference to the Treaty of Queretaro was deleted because any citizen who derived his citizenship from that source would necessarily be a "citizen of the United States" within the meaning of revised Section 1. The existing 90-day waiting period for naturalized citizens was deleted as unnecessary and possibly unconstitutional.

The Commission recommends that the minimum age for voting be reduced from 21 to 19 years of age, and suggests to the Legislature that this proposal be submitted to the electors as a separate ballot measure. It should be noted that the constitutionality of the 21-year voting age is being challenged in pending litigation. See *Puishes v. Mann*, Civil Action No. C-69503ACW, United States District Court for the Northern District of California.

**Proposed Constitution****Section 2**

Sec. 2. Voting shall be secret.

**Existing Constitution****Section 5**

Sec. 5. [All elections by the people shall be by ballot or by such other method as may be prescribed by law; provided,] that secrecy in voting be preserved.\*

\* Bracketed portions of Section 5 are not pertinent to revised Section 2 but are treated with revised Section 1.

**Comment:** Proposed Section 2 continues the existing guarantee of secrecy in voting. The first clause of existing Section 5 is unnecessary since the Legislature is compelled by revised Section 1 to provide for the election details such as the method of voting.

**Proposed Constitution****Section 3**

Sec. 3. The Legislature shall prohibit improper practices which affect elections and provide for the disqualification of electors while mentally incompetent or under court order for conviction of designated felonies.

**Existing Constitution****Section 1, clause 3**

. . . provided, further, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement, or misappropriation of public money, . . . shall ever exercise the privileges of an elector in this State. . . .

**Article XX****Section 11, sentence 2**

The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult or other improper practice.

**Comment:** This proposed provision compels the Legislature to protect elections from improper practice and, subject to specified conditions, to provide for disqualification of electors who are mentally incompetent or under court order for conviction of felonies specified by the Legislature.

Reference to the prohibition of improper practice in proposed Section 3 is derived from the corresponding prohibition in Article XX, Section 11.

Provision for the disqualification of felons and mental incompetents has been retained in the Commission's proposal, but has been revised and clarified. The existing provision, Section 1, clause 3, appears to mean that persons convicted of crime, or persons found to be insane, are disqualified from voting even after the completion of their sentences or the recovery of their mental health. The Commission recommends that the disqualification apply only while the elector is actually under sentence, or other court order, or actually mentally ill. Proposed Section 3 empowers the Legislature to disqualify electors only under these circumstances.

The phrase "under court order" in most instances means "under sentence." "Under court order" was used rather than "under sentence" because there are certain limited circumstances in which a court disposition after conviction is not technically a sentence.

Definition of the term "mentally incompetent" was deemed unsuited for constitutional treatment but properly within the province of the Legislature and the courts.

The existing Constitution, Section 1, clause 3, uses the ambiguous term "infamous crime" to describe the crimes which result in disqualification from voting. The Attorney General had interpreted this term to mean conviction of any felony but the California Supreme Court recently held that this interpretation is too broad, and that not every felony can result in disenfranchisement. For this reason, the Commission has used the term "designated felonies", meaning that the Legislature should determine which felonies result in disqualification from voting.

**Proposed Constitution**

**Section 4**

Sec. 4. The Legislature shall provide for primary elections for partisan offices.

**Existing Constitution**

**Section 2.5**

Sec. 2.5. The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population, without making such compensation uniform, and for such purpose such law may declare the population of any city, city and county, county or political subdivision.

**Comment:** Proposed Section 4 continues the existing mandate to the Legislature to provide for primary elections. Other provisions in existing Section 2.5 relating to conventions of political parties, qualifications for participation in primary elections, and compensation for primary election officers are unnecessary since the Legislature has power over these matters both inherently and from proposed Section 1. Detailed statutory provisions covering these and related matters already are in the Elections Code.

**Proposed Constitution**

**Section 5**

Sec. 5. Judicial, school, county, and city offices shall be nonpartisan.

**Existing Constitution**

**Section 2 $\frac{3}{4}$ , part of first sentence**

Sec. 2 $\frac{3}{4}$ . Any candidate for a judicial, school, county, township, or other nonpartisan office . . . .

**Comment:** Existing Section 2 $\frac{3}{4}$  is the only existing constitutional guarantee that judicial, school, and county offices are nonpartisan. The Commission concluded that this provision should be retained and clarified, which has been done in proposed Section 5. City offices are added to the list of nonpartisan offices in recognition of the existing practice throughout the State.

# **EXHIBIT K**

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Introduced by Senator Alquist

January 7, 1971

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REFERRED TO COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

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*Senate Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 8 to Article II thereof, relating to elections.*

LEGISLATIVE COUNSEL'S DIGEST

SCA 3, as introduced, Alquist (E. & R.). Open presidential primary. Adds Sec. 8, Art. II, Cal. Const.

Requires Legislature to provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.

Vote— $\frac{2}{3}$ ; Appropriation—No; Fiscal Committee—Yes.

1     *Resolved by the Senate, the Assembly concurring, That the*  
2     Legislature of the State of California at its 1971 Regular Ses-  
3     sion commencing on the fourth day of January, 1971, two-  
4     thirds of the members elected to each of the two houses of the  
5     Legislature voting therefor, hereby proposes to the people of  
6     the State of California that the Constitution of the state be  
7     amended by adding Section 8 to Article II thereof, to read:  
8     SEC. 8. The Legislature shall provide for an open presi-  
9     dential primary whereby the candidates on the ballot are those  
10    found by the Secretary of State to be recognized candidates  
11    throughout the nation or throughout California for the office  
12    of President of the United States, and those whose names are  
13    placed on the ballot by petition, but excluding any candidate  
14    who has withdrawn by filing an affidavit that he is not a  
15    candidate.



# **EXHIBIT L**

ASSEMBLY COMMITTEE ON ELECTIONS AND REAPPORTIONMENT

HENRY A. WAXMAN, CHAIRMAN

ANALYSIS - SCA 3 (ALQUIST)

HEARING: Wednesday, October , 1971, 3:00 p.m., Room 2170, State Capitol

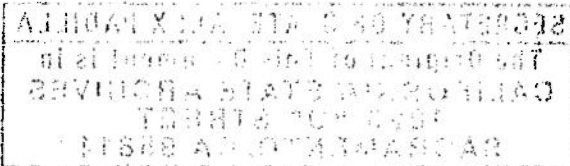
SUBJECT: "Open" Presidential Primary

SUMMARY: SCA 3 would place on the November 1972 ballot the question whether California should have an "open" Presidential primary. Under the measure the Secretary of State would be required to place all publicly recognized candidates for President on the primary ballot. Other candidates could qualify by petition. A candidate could withdraw by filing an affidavit that he is not a candidate.

BACKGROUND:

1. A similar SCA was passed by the Senate last year but was held in this committee.
2. Similar legislation passed the Legislature in 1968 and 1969 but was vetoed by the Governor.
3. SB 3, SB 278, and SB 279 would accomplish the same purpose as this constitutional amendment and are currently on third reading in the Senate.

COMMENT: 1. There is no companion legislation, so that if the voters approve the amendment next year, the Legislature will have to pass legislation at some point before the 1976 Presidential primary.



# **EXHIBIT M**

November 3, 1971 *File*

ALEX P. GARCIA, CHAIRMAN

STAFF ANALYSIS: SCA 3 (Alquist)(Note: there is no companion bill before the committee at this time.)SUBJECT: Presidential Primary ElectionSUMMARY: Adds new section to Article 2 of California Constitution.... requires Legislature to provide for an open presidential primary election.... Secretary of State would be required to place all publicly recognized candidates for President on the primary ballot... other candidates could qualify by petition... candidates could withdraw by filing an affidavit that he is not a candidate.BACKGROUND: There are two kinds of presidential primaries held in various states. They are sometimes held separately and sometimes in conjunction with each other.(1) Presidential Preference Poll - prospective presidential nominees are printed on the ballot... these polls may or may not be binding on state's delegates to national party convention.(2) Delegate Election - voters choose delegates to national conventions. In some instances delegates are elected by slate; sometimes individually, they may be listed as pledged to a certain presidential candidate, or as "favorable" to one, or as unpledged. Some states delegates may indicate they will support whoever wins the presidential preference poll.

California primary dates back to 1912... allows registered party voters to choose between statewide slates... 1961 amendment permits uninstructed delegate slates... California has usually nominated supported favorite sons, or incumbent presidents have run unopposed in the primary. (Recent exceptions, 1964 Republican primary, 1968 Democratic primary).

HISTORY OF PRESIDENTIAL PREFERENCE POLL: In 1910, Oregon invented the idea of a presidential preference poll... under existing law Secretary of State must place the name of any presidential or vice presidential candidate "when he shall have determined in his sole discretion that such candidate's candidacy is generally advocated or recognized in national news media."

Oregon law requires 1,000 signatures of registered members of the candidate's party to place a name on the ballot. Write-in votes are another alternative. Oregon has no provision for a candidate to withdraw.

OTHER STATES: Seventeen (17) states and the District of Columbia have scheduled presidential primaries for 1972.... some form of primary is being considered in at least 10 other states... open primary election, as proposed by this bill, originated in Oregon, now followed by Maryland, Nebraska, Tennessee, and Wisconsin.

Vermont provides each voter an individual packet of ballots for each major political party... the voter marks one of the packets and throws the others away without having to disclose which party he supports.

FISCAL EFFECT: None, according to Legislative Analyst.

STAFF ANALYSIS: SCA 3 (Alquist)

CONSTITUTION REVISION COMMISSION: felt that language proposed in Article 2 revision, not yet adopted, would empower the Legislature to provide for primary elections for partisan offices.

PREVIOUS LEGISLATION: similar legislation passed both houses in 1968 and 1969 but was vetoed by the Governor....similar SCA was passed by the Senate last year but was held in Assembly Elections and Reapportionment.

CURRENT LEGISLATION: SB 3, SB 278, and SB 279 by Alquist would accomplish the same purpose as this constitutional amendment and are currently in Assembly E & R.

EFFECTIVE DATE: In its present form, ACA 63 will go on the November, 1972, ballot..if committee decides that June ballot is preferable, companion bill, calling a special election to be consolidated with a statewide election, could place the measure on the June 1, 1972, ballot. If voters approve the amendment, it would be in effect for the 1976 presidential primary.

COMMENT: There is no companion legislation before the committee at this time.....the Legislature will have to pass legislation at some point before the 1976 presidential primary.

# **EXHIBIT N**

1972

## Voter Information Guide for 1972, General Election

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Proposed

# AMENDMENTS TO CONSTITUTION

## PROPOSITIONS AND PROPOSED LAWS

Together With Arguments

*(Arguments in support or opposition of the proposed laws are opinions of the authors)*

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## GENERAL ELECTION

Tuesday, November 7, 1972

Compiled by GEORGE H. MURPHY, Legislative Counsel  
Distributed by EDMUND G. BROWN Jr., Secretary of State



**7 ELECTIONS AND PRESIDENTIAL PRIMARY. Legislative Constitutional Amendment.** Requires Legislature to provide for primary elections for partisan offices, including an open presidential primary. Provides that a United States citizen 18 years of age and resident of this state may vote in all elections. Declares certain offices nonpartisan. Provides for secret ballot. Requires Legislature to define residence, provide for registration and free elections, prohibit improper election practices, and remove election privileges of certain persons. Financial impact: None.

YES

NO

(For Full Text of Measure, See Page 8, Part II)

**General Analysis by the Legislative Counsel**

A "Yes" vote on this legislative constitutional amendment is a vote to revise portions of the California Constitution dealing with qualifications for voting, voter residence, primary elections, and conduct of elections.

A "No" vote is a vote to reject this revision.

For further details, see below.

**Detailed Analysis by the Legislative Counsel**

This measure would revise the Constitution by making the following changes:

**(1) Qualifications for Voting**

Generally, the Constitution now provides that every citizen of the United States of the age of 21 years, who has been a resident of the state one year, of the county 90 days, and of the election precinct 54 days prior to an election, has the right to vote, except aliens ineligible to citizenship, idiots, insane persons, persons convicted of infamous crimes or of embezzlement or misappropriation of public money, and any person unable to read the Constitution in English and write his name (unless he is prevented by physical disability or had the right to vote in 1911). It also now authorizes the Legislature to extend the right to vote for presidential electors to persons residing in the state for 54 days who meet all other requirements except time of residence and who would have been qualified to vote at the presidential election in another state had they remained in that other state.

The age requirement was recently reduced to 18 years of age by enactment of the Twenty-sixth Amendment to the United States Constitution. The residence requirements were recently reduced by the California Supreme Court to 30 days in the state, county, and precinct. The English language requirement was recently suspended until August 6, 1975, and thereafter for an indefinite period in certain counties by the federal Voting Rights Act Amendments of 1970, and modified by the California Supreme Court to allow persons to vote who are literate in Spanish but not in English.

This measure would delete the existing qualifications for voting and add provisions which specify that any United States citizen

(Continued in column 2)

**Cost Analysis by the Legislative Analyst**

Adoption of this constitutional amendment will have no effect on state or local revenues or costs.

(Continued from column 1)

18 years of age and resident (as defined by the Legislature) in this state may vote, except that the Legislature must provide that no severely mentally deficient person, insane person, person convicted of an infamous crime, or person convicted of embezzlement or misappropriation of public funds may vote.

**(2) Voter Residence**

The Constitution now provides that any voter moving from one county to another within 90 days of an election, or moving from one precinct to another within the same county within 54 days of an election shall be deemed a resident of the county or precinct from which he moved until after such election. It also provides that voting residence is not affected by presence or absence while in the service of the United States, while engaged in nautical pursuits, while a student, while kept at an almshouse or other asylum at public expense, or while in prison.

This measure would delete the existing voter residence provisions and require the Legislature to define residence.

**(3) Primary Elections**

The Constitution now authorizes the Legislature to enact laws concerning specific aspects of political conventions and primary elections, and requires the Legislature to provide for the direct nomination of candidates at primary elections. It now provides that, unless restricted by charter, a candidate for nonpartisan office who receives a majority of votes cast for that office at a primary election is elected. It now requires the Legislature to provide for an open presidential primary.

This measure would delete the existing primary election provisions and require the Legislature to provide for primary elections for partisan offices. Provisions for an open presidential primary would be unchanged. Judicial, school, county, and city elections would be continued as nonpartisan offices.

(Continued on page 19, column 1)

**Detailed Analysis by the Legislative Counsel**  
(Continued from page 18, column 2)  
Conduct of Elections

The Constitution now provides that voters are privileged from arrest on election days, except for treason, felony, or breach of the peace, and that voters are exempt from militia duty on election days, except in time of war or public danger. It now provides for

(Continued in column 2)

**Argument in Favor of Proposition 7**

Proposition 7 revises Article II of the State Constitution and brings it into conformity with recent changes in the laws governing voting.

The existing California Constitutional sections relating to voting are obsolete as federal legislation and court decisions have made many of these provisions invalid. Nationally, the voting age is now 18, and the basic resident requirement is 30 days. Existing Article II is therefore inadequate and obsolete and should not be retained in the Constitution in its present form. A "YES" vote on Proposition 7 will remove this obsolete material and bring our State document up to date.

A YES on Proposition 7 will also provide California with a clear, concise, and accurate Article on voting. This language was approved by both houses of the Legislature, is a nonpartisan measure, and is endorsed by the League of Women Voters. There is no cost to the taxpayers. It removes detailed and unnecessary language relating to primary elections, voting machines, militia duty on election day, fluency in English and similar matters, and retains these details in the statutes. It also renumbers without change the provision adopted by the voters in the last June's primary election relating to open presidential primary.

Vote "YES" on Proposition 7 to keep our California Constitution up to date.

**ALBERT S. RODDA**

State Senator, 5th District

**JOHN T. KNOX**

Assemblyman, 11th District

**JUDGE BRUCE W. SUMNER**, Chairman  
Constitution Revision Commission

**Rebuttal to Argument in Favor  
of Proposition 7**

It is true as the proponents state that recent court decisions and federal legislation have made the basic residence requirements for voting at this time 30 days. Just as sure as federal legislation and the courts can shorten these requirements, they can at a future time lengthen them, and many people think they very well may do so. There is therefore no reason to change our Constitution because of what federal legislative or court actions have done in the past.

It is true that favor of the Secretary of State selecting presidential candidates to ap-

(Continued from column 1)

secret voting, and authorizes the Legislature to establish different voting methods for different parts of the state including the use of mechanical voting devices on a local option basis.

This measure would delete the existing conduct of elections provisions and provide the Legislature shall prohibit improper election practices and that voting shall be secret.

pear on the ballot was indicated by voters of the June Primary just past, but there is no reason to freeze into the Constitution a provision which mandates that the Legislature do this particularly in a proposition of this kind which relates to so many other matters as well.

The proponents point to what they believe to be "unnecessary" language relating for example to abolishing the necessity of a voter having some familiarity of the English language. There are many persons who believe this and much other language presently in the Constitution to be extremely necessary to protect the rights of all of us. We should, therefore, continue our present constitutional protections and vote "no" on this proposition.

**JAMES E. WHETMORE**

State Senator, 35th District

**Argument Against Proposition 7**

Proposition 7 wipes out a number of our traditional protections in the area of voting eligibility.

Presently, a person must be a resident of the state for one year, of the county for 90 days and of the precinct for 54 days before voting. Proposition 7 deletes this requirement and allows the Legislature to set whatever requirements it desires. Both legislative sentiment and recent court decisions have pointed toward a mere 30-day residence requirement which would allow a transient population or even tourists in the area for 30 days to vote for additional taxes and bond indebtedness, thus possibly saddling an otherwise stable community with debts to be paid long after the transients and tourists have moved on. Arguably, a person should have at least some "roots" in a community before being allowed to plunge it into debt. While it will be argued that court decisions have abolished residency requirements, it should also be remembered that courts can and have made decisions in one direction, and after a period of time completely reversed themselves. In the next few years the philosophies of our courts may well change to a reflection of more conservative points of view with decisions once again protecting the communities rather than exposing them to this unfair, short residence voting requirement. Court decisions thus are no reason to change our Constitution at this time.

Proposition 7 provides that while names of presidential candidates can be placed

on the ballot by petition, the primary method by which a candidate's name may be placed on the ballot is by the Secretary of State in his judgment and his judgment alone passing on the candidate's "recognition," and thus deciding as a practical matter which candidates will be voted on by the people. This is too important a matter to be left to the judgment of any one person.

Presently the Constitution requires that a person be able to read the Constitution in English and write his or her own name in order to vote. Proposition 7 removes this requirement completely, thus allowing persons who cannot read or write to vote on all public issues. It is difficult to see how a person who could not read or write could understand the ballot when many persons whose knowledge of English is fluent appear to have difficulty with it. Opening the vote to persons who cannot understand the language of this country is an open invitation to uninformed voting, and voting based upon how someone tells them to vote. This can only lead to corruption of the worst kind.

Since Proposition 7 abolishes all residential requirements and leaves them up to the Legislature, since it places in the hands of the Secretary of State the complete judgment as to whose names should be on the presidential ballot, and because it allows persons to vote who cannot read and write, Proposition 7 should be defeated and the present system which has worked well for many years should be retained.

**JAMES E. WHETMORE**  
State Senator, 35th District

**Rebuttal to Argument Against Proposition 7**

The argument against Proposition 7 unfortunately fails to address current law and the intent of the Legislature to remove from

the Constitution language that has been declared unconstitutional or has been changed by Congress. The people of the State of California should not be misled regarding this fundamental right to vote when reading the Constitution.

To assert that this measure is unnecessary because future court decisions may further alter residence and registration requirements is actually the strongest argument in support of Proposition 7. This is precisely why the Constitution Revision Commission retains only the most basic voting requirements in the Constitution and authorizes the Legislature to act in the future on technical election procedures and deadlines.

The open presidential primary was added to the Constitution by the people in June 1972. A "Yes" vote merely rennumbers that provision to conform to other language in Article II.

The existing State Constitution has an "English" literacy requirement. This provision is meaningless as it is now impossible to enforce and has recently been held invalid by our Supreme Court as discriminatory against Californians literate in Spanish and other languages. Proposition 7 does not take away the power of the Legislature to enact any literacy requirement which may be lawfully applied.

The argument against Proposition 7 is in reality an argument to keep inaccurate, unenforceable and obsolete material in our Constitution. Vote "Yes" to replace 1,000 outdated words with the concise and accurate statement of our right to vote.

**ALBERT S. RODDA**  
State Senator, 5th District  
**JOHN T. KNOX**  
Assemblyman, 11th District  
**JUDGE BRUCE W. SUMNER**, Chairman  
Constitution Revision Commission

**8 TAX EXEMPTION FOR ANTI-POLLUTION FACILITIES. Legislative Constitutional Amendment.** Authorizes Legislature to exempt from ad valorem taxation facilities which remove, eliminate, reduce or control air, water or noise pollution to or in excess of standards required by state or local requirements and to provide state subventions to local governments for revenues lost by reason of such exemptions. Financial impact: None in absence of implementing legislation.

<b>YES</b>	
<b>NO</b>	

(For Full Text of Measure, See Page 10, Part II)

**General Analysis by the Legislative Counsel**

A "Yes" vote on this legislative constitutional amendment is a vote to authorize the Legislature, by a majority vote, to exempt, in whole or in part, air, water, and noise pollution control facilities from property taxation, with compensation of local governments for taxes thereby lost.

A "No" vote is a vote against granting this authority to the Legislature.

For further details, see below.  
(Detailed analysis on page 21, column 1)

**Cost Analysis by the Legislative Analyst**

This constitutional amendment authorizes the Legislature to exempt from property taxation any facility designed to control air, water, or noise pollution, including machinery and equipment installed to meet requirements of the law. The amendment also requires the Legislature to pay money to cities, counties, and special districts including schools to replace any loss of property tax revenue they may sustain as a result of

(Continued on page 21, column 2)

channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight, thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

Sec. 2. The Legislature, in cooperation with the properly constituted authorities of any adjoining state, is empowered to create, alter, and redefine the state boundaries; such change, alteration and redefinition to become effective only upon approval of the Congress of the United States. The Legislature, in connection with such change, alteration or redefinition of boundaries may provide for and deal with all matters involving the taxation or the exemption from taxation of any real or personal property involved in, or affected by, such change, alteration or redefinition of boundaries.

**7 ELECTIONS AND PRESIDENTIAL PRIMARY.** Legislative Constitutional Amendment. Requires Legislature to provide for primary elections for partisan offices, including an open presidential primary. Provides that a United States citizen 18 years of age and resident of this state may vote in all elections. Declares certain offices nonpartisan. Provides for secret ballot. Requires Legislature to define residence, provide for registration and free elections, prohibit improper election practices, and remove election privileges of certain persons. Financial impact: None.

YES	
NO	

(This amendment proposed by Senate Constitutional Amendment No. 32, 1972 Regular Session, expressly repeals an existing article of the Constitution and adds a new article thereto; therefore, **EXISTING PROVISIONS** proposed to be **REPEALED** are printed in **STRIKEOUT TYPE**; and **NEW PROVISIONS** proposed to be **ADDED** are printed in **BOLDFACE TYPE**.)

**PROPOSED AMENDMENTS TO ARTICLE II**

First—That Article II thereof be repealed.

**ARTICLE II**

**RIGHT OF SUFFRAGE**

**SECTION 1.** Every native citizen of the United States of America; every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Quere-taro; and every naturalized citizen thereof, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote ninety days; and in the election precinct fifty-four days; shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same county within fifty-four days; or any person duly registered as an elector in any county in California and removing therefrom to another county in California within ninety days prior to an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; provided, further, no alien ineligible to citizenship; no idiot; no insane person; no person convicted of any infamous crime, no

person hereafter convicted of the embezzlement or misappropriation of public money; and no person who shall not be able to read the Constitution in the English language and write his or her name; shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions; nor to any person who had the right to vote on October 10, 1911, nor to any person who was 60 years of age and upwards on October 10, 1911; provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on the day on which any election is held.

**Sec. 1½.** The Legislature may extend to persons who have resided in this State for at least 54 days but less than one year the right to vote for presidential electors; but for no other office; provided, that such persons were either qualified electors in another state prior to their removal to this State or would have been eligible to vote in such other state had they remained there until the presidential election in that state; and, provided further, that such persons would be qualified electors under Section 1 hereof except that they have not resided in this State for one year.

**Sec. 2.** Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election; during their attendance at such election; going to and returning therefrom.

**Sec. 2.5.** The Legislature shall have power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates

for public office, by electors, political parties, organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population; without making such compensation uniform; and for such purpose such law may declare the population of any city, city and county, county or political subdivision.

Sec. 2 3/4. Any candidate for a judicial, school, county, township, or other nonpartisan office who at a primary election shall receive votes on a majority of all the ballots cast for candidates for the office for which such candidate seeks nomination, shall be elected to such office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving such majority, equal in number to the number to be elected. Where a different method of election is provided by a freeholders' charter, the charter provisions shall govern.

Sec. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

Sec. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States; nor while engaged in the navigation of the waters of this State or of the United States; or of the high seas; nor while a student at any seminary of learning; nor while kept at any almshouse or other asylum; at public expense; nor while confined in any public prison.

Sec. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; provided, that secrecy in voting be preserved.

Sec. 6. The inhibitions of this Constitution to the contrary notwithstanding, the Legislature shall have power to provide that in different parts of the State different methods

may be employed for receiving and registering the will of the people as expressed at elections; and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the legislature for that purpose.

Sec. 7. All elective officers of counties, and of townships, of road districts and of highway construction divisions therein shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers.

Sec. 8. The Legislature shall provide for an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.

Second—That Article II be added thereto, to read:

## ARTICLE II SUFFRAGE

Section 1. A United States citizen 18 years of age and resident in this state may vote.

Sec. 2. The Legislature shall define residence and provide for registration and free elections.

Sec. 3. The Legislature shall prohibit improper practices that affect elections and shall provide that no severely mentally deficient person, insane person, person convicted of an infamous crime, nor person convicted of embezzlement or misappropriation of public money, shall exercise the privileges of an elector in this state.

Sec. 4. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit that he is not a candidate.

Sec. 5. Judicial, school, county, and city offices shall be nonpartisan.

Sec. 6. Voting shall be secret.

# **EXHIBIT O**

Contact: Caren Daniels  
5-6371

For Immediate Release  
January 30, 1976

SECRETARY OF STATE EU SELECTS PRESIDENTIAL CANDIDATES

SACRAMENTO -- Secretary of State March Fong Eu held a news conference today (Jan. 30) to announce the first "selected" presidential candidates for California's new "open presidential primary" system.

"When the discretion was given to the Secretary of State to place names of prospective candidates on the primary ballots of the four lawfully-acknowledged political parties in California, my suspicion is that many people warmed their hands to the prospect of a beauty contest," Ms. Eu told the group of reporters. "I do not regard the presidential primary of any of the qualified political parties in California as a beauty contest featuring the most popular domestic names in the state. The presidential primary is a serious device which the political parties have chosen to use in nominating and electing the President of the United States.

"Today I am announcing my first definite list of active presidential candidates for California. In arriving at this list, I have taken into consideration a number of factors, including the fact that the persons are announced candidates, appear to be actively campaigning, have qualified for matching federal funds under the 1974 amendments to the Federal Elections Campaign Act, and are slated to appear on other states' primary ballots," Ms. Eu said.

"Additionally, I have closely monitored the media coverage of potential candidates, I appointed staff members to compile their own independent lists, I wrote the state central committee chairpersons of the Democratic, Republican, American Independent, and Peace and Freedom parties requesting their written suggestions of nominees, and I polled the California news media.

"I have considered a number of names and criteria, and have concluded that I will best serve California's voters and candidates by only selecting those candidates who have made a definite commitment to seek the presidency. No one is served by a lengthy ballot of relatively-unknown or only 'mildly-interested' candidates," the secretary of state said.

(more)

"I think none of you will be surprised to learn my list of candidates for the Republican Party includes only two names -- President Gerald R. Ford, and former California Governor Ronald Reagan. Whichever candidate receives the majority of the popular votes in California will go to the national convention in Kansas City, Missouri, on August 16 with a block of 167 delegates, under the party's winner-take-all primary system.

"My hardest decisions, quite obviously, concerned the Democratic candidates, since so many names have been mentioned as possibilities. My first inclination was not to announce any Democrats at this point, and wait for the field to narrow itself down a bit first. However, nine Democrats have mustered enough national attention to be placed on my list.

"These presidential hopefuls include Birch Bayh, U.S. Senator from Indiana; Lloyd Bentsen, U.S. Senator from Texas, Jimmy Carter, former Governor of Georgia; Fred Harris, former U.S. Senator from Oklahoma; Henry Jackson, U.S. Senator from Washington; Milton Shapp, Governor of Pennsylvania; Sargent Shriver from Illinois, the 1972 vice presidential nominee; Morris Udall, U.S. Representative from Arizona; and George Wallace, Governor of Alabama.

"California's 280 delegates to the Democratic National Convention in New York on July 12 will be apportioned according to a complex formula which allocates delegates according to the popular votes each candidate receives in each of the state's 43 congressional districts.

"One name which is noticeably missing from my Democratic list is that of Governor Edmund Brown Jr. I wrote a letter to the Governor on Jan. 6, asking him if he wished to be placed on California's ballot. He has not personally responded to me, either verbally or in writing. My deputy, however, did receive a telephone call from Gray Davis, executive secretary to the Governor, yesterday. Mr. Davis was responding on behalf of the Governor, and quoted Brown as saying, 'I have not made a decision to enter the California primary. If I do, I will let your office know.' Therefore, the Governor's name is not on my list, and will not be in the absence of an affirmative action on his part."

Ms. Eu continued, "If Governor Brown tells me he wants to be a favorite son candidate, I will put him on the ballot. If the Governor informs me that he wants to exercise California's political clout at



the national convention, I will add him to the list. If Jerry Brown really wants to be a serious presidential contender, and shows me some indication that he intends to campaign in this state, I will put him on the ballot."

Ms. Eu said that to put the Governor on the ballot in the absence of a definite indication or commitment from him "is not fair to those candidates who are serious, who are in the process of putting together campaign machines, and who have gone even further than that by actually qualifying for federal matching funds."

Ms. Eu also announced, "The presidential candidate for the Peace and Freedom Party is Margaret Wright of Los Angeles." It currently appears that the Peace and Freedom Party will send 45 delegates to the National Convention of the People's Party, the party with which they affiliate on the national level.

"The presidential candidate for the American Independent Party will not be announced until after the party's state executive committee meeting this weekend in Bakersfield," the secretary of state said. The party will have 180 delegates from California to send to the American Independent Party National Committee Convention.

A constitutional amendment passed by the voters in November of 1972 called for the legislature to adopt laws to create an open presidential primary. In accordance with this mandate, the legislature enacted laws last year providing new rules to govern the presidential primary elections of each of California's four parties. Each of the laws provides that the "Secretary of State shall place the name of a candidate upon the primary ballot when the Secretary of State has determined that such a candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination" of their party for President of the United States.

Ms. Eu was required to make her initial announcement of selected candidates by Jan. 31 for the Democratic Party, and Feb. 1 for the other three qualified parties. Following this announcement, she may add names to the list, but she may not delete names from the announced list. Any selected candidate not wishing to appear on the California ballot must file with the secretary of state no later than April 5 "an affidavit stating without qualification that <sup>97</sup> he or she is not now a

for the office of President of the United States" in order to have his or her name removed from the ballot. Ms. Eu may add candidates to her list until April 5.

"It should be remembered that these are not necessarily the only candidates who will appear on the June 8 ballot," the secretary of state explained. "There still exists a method of qualifying for the ballot by circulating nomination papers and obtaining signatures on them equal in number to <sup>10% of</sup> the number of registered members of their particular political party as of January of the election year."

Nomination papers may be circulated between Feb. 25 and March 26.

###

763CD

# **EXHIBIT P**

# NEWS RELEASE

from: Secretary of State March Fong Eu  
1230 J Street, Sacramento, CA 95814  
(916) 445-6371

For Immediate Release  
January 31, 1980

Contact: Caren Daniels

## SECRETARY OF STATE EU ANNOUNCES FIRST PRESIDENTIAL CANDIDATES

SACRAMENTO -- Secretary of State March Fong Eu, at a State Capitol news conference today (Jan. 31), announced her initial list of selected presidential candidates, naming two American Independents, four Democrats, one Libertarian, four Peace and Freedom Party members, and seven Republicans to the June 3 ballot.

"California law provides basically two methods for being placed on the presidential primary ballot," Ms. Eu explained. "One is by being generally advocated for or recognized throughout the United States or California as actively seeking one's party nomination. The other is by circulating nomination papers and collecting signatures. I am directed by law to determine which candidates meet the first standard and announce my list by February 1."

American Independent Party candidates will be Sean Morton Downey, Jr., of Nevada and former Congressman John Rarick of Louisiana. The executive committee of the state central committee made these recommendations. Votes on these candidates are advisory only.

Democrats placed on the presidential ballot are Gov. Jerry Brown, President Jimmy Carter, Senator Edward Kennedy, and Lyndon LaRouche of New York. "The Democratic presidential primary law in California is unique from the other party laws in that it states that criteria used in selecting candidates shall include the fact of qualifying for federal matching funds," Ms. Eu said. "All four of these Democratic candidates have qualified."

The Libertarian nominee will be Ed Clark, having already been selected by the party's nominating convention. The votes will be non-binding on the delegates.

(over)



Peace and Freedom Party registered voters will cast an advisory vote for Barry Commoner of Missouri, Deidre Griswold of New York, Gus Hall of New York, or Benjamin Spock of Arkansas.

Republican candidates selected to date include Rep. John Anderson of Illinois, Sen. Howard Baker of Tennessee, former CIA Director George Bush, former Texas Governor John Connally, Rep. Philip Crane of Illinois, Senator Robert Dole of Kansas, and former California Governor Ronald Reagan.

The secretary of state described criteria for making her initial selections as including the candidate's having qualified for federal matching funds, appearance on several other state's primary ballots, inclusion in national public opinion polls, and extensive news media coverage.

Prior to March 31, the secretary of state may add names to her list, but she cannot remove any selected candidate unless he or she files a formal affidavit of withdrawal.

"Generally speaking, a candidate I've placed on the presidential ballot may withdraw by filing with me by March 31 an affidavit stating without qualification that he is no longer a candidate," Ms. Eu said. "This requirement applies to all but the Democratic candidates. The Democratic law is much more stringent. For one of these selected Democratic candidates to withdraw, he must file within two days from today -- in other words by February 2 -- an affidavit stating without qualification that he is not a candidate and that he has filed or will timely file similar documents with the other states having open presidential primaries. This precludes a wait-and-see posture which some candidates might have preferred."

Ms. Eu went on to explain that "non-selected persons wishing to be candidates can circulate nomination papers." AIP candidates need 920 petition signatures, Libertarians need 875, PFP candidates need 343 signatures, and Republicans need 34,197. Democratic hopefuls and uncommitted delegations must obtain nomination papers signed by registered Democrats equal to one percent, or 1,000, whichever is fewer, in each congressional district. In 41 California congressional

(more)

districts, the number will be 1,000. However, in the 25th c.d.

791 signatures are needed, and in the 26th c.d. 980 are required.

Write-in candidates may file to have their write-in votes counted by submitting an endorsement of write-in candidacy to the secretary of state by May 13.

Further candidates will be added by Ms. Eu if they qualify for federal matching funds or make significant showings in other state primaries prior to March 31.

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# **EXHIBIT Q**

# NEWS RELEASE

from: Secretary of State March Fong Eu  
1230 J Street, Sacramento, CA 95814  
(916) 445-6375

For Immediate Release  
January 31, 1992

Contact: Melissa Warren or  
Shirley Washington

## EU ANNOUNCES PRESIDENTIAL CANDIDATES FOR JUNE PRIMARY ELECTION

SACRAMENTO -- Secretary of State March Fong Eu today (Jan. 31) released the names of the candidates she has selected initially to appear on the June 2 primary election ballot for the presidential nomination of four of the state's six qualified political parties.

Listed alphabetically by party, the candidates are:

### American Independent Party

Howard Phillips

### Democratic Party

Edmund G. Brown Jr.  
William J. Clinton  
Tom Harkin  
Bob Kerrey  
Paul Tsongas

### Green Party

The Green Party has chosen not to participate in the 1992 presidential primary election.

### Libertarian Party

The Libertarian Party has already held its nominating convention and has selected Andre Marrou as its nominee for November.

### Peace and Freedom Party

Ron Daniels

### Republican Party

Pat Buchanan  
George Bush

(over)



Candidates selected by the secretary of state to appear on the ballot are those who are "generally recognized" as candidates for their respective nominations. Traditionally, the criterion for inclusion on the list of selected candidates for the Democratic and Republican ballots has been qualification for federal matching funds. The Elections Code requires initial selections to be made by Feb. 1.

Presidential hopefuls not selected by the secretary of state may gain ballot access through the petition process. Unselected Democratic candidates must submit petitions signed by registered Democrats equal to not less than 1% or 500, whichever is fewer, of the party's registration in each of the 52 congressional districts. Unselected Republican, American Independent and Peace and Freedom party affiliates must submit signatures of party members equal in number to 1% of the party's statewide registration total.

Selected or unselected candidates who wish to withdraw from California's primary may do so by filing an affidavit requesting that his or her name be removed. The affidavit must be received by Mar. 30, the 64th day before the election.

Lenora B. Fulani has requested ballot status as a candidate for the Peace and Freedom party nomination; her eligibility to seek that nomination is being reviewed. Dr. Eu did not place the names of Democrat Lyndon LaRouche and Republican David Duke on this initial list of selected presidential candidates because neither has qualified for federal funds; all other selected Democratic and Republican candidates have done so. Should other candidates qualify after today, Dr. Eu may add their names to the list until Apr. 4, the date she must certify the presidential candidate list.

###

92012MW

# **EXHIBIT R**

# NEWS RELEASE

from: Secretary of State March Fong Eu  
1230 J Street, Sacramento, CA 95814  
(916) 445-6375

For Immediate Release  
January 31, 1992

Contact: Melissa Warren or  
Shirley Washington

## EU ANNOUNCES PRESIDENTIAL CANDIDATES FOR JUNE PRIMARY ELECTION

SACRAMENTO -- Secretary of State March Fong Eu today (Jan. 31) released the names of the candidates she has selected initially to appear on the June 2 primary election ballot for the presidential nomination of four of the state's six qualified political parties.

Listed alphabetically by party, the candidates are:

### American Independent Party

Howard Phillips

### Democratic Party

Edmund G. Brown Jr.  
William J. Clinton  
Tom Harkin  
Bob Kerrey  
Paul Tsongas

### Green Party

The Green Party has chosen not to participate in the 1992 presidential primary election.

### Libertarian Party

The Libertarian Party has already held its nominating convention and has selected Andre Marrou as its nominee for November.

### Peace and Freedom Party

Ron Daniels

### Republican Party

Pat Buchanan  
George Bush

(over)

Candidates selected by the secretary of state to appear on the ballot are those who are "generally recognized" as candidates for their respective nominations. Traditionally, the criterion for inclusion on the list of selected candidates for the Democratic and Republican ballots has been qualification for federal matching funds. The Elections Code requires initial selections to be made by Feb. 1.

Presidential hopefuls not selected by the secretary of state may gain ballot access through the petition process. Unselected Democratic candidates must submit petitions signed by registered Democrats equal to not less than 1% or 500, whichever is fewer, of the party's registration in each of the 52 congressional districts. Unselected Republican, American Independent and Peace and Freedom party affiliates must submit signatures of party members equal in number to 1% of the party's statewide registration total.

Selected or unselected candidates who wish to withdraw from California's primary may do so by filing an affidavit requesting that his or her name be removed. The affidavit must be received by Mar. 30, the 64th day before the election.

Lenora B. Fulani has requested ballot status as a candidate for the Peace and Freedom party nomination; her eligibility to seek that nomination is being reviewed. Dr. Eu did not place the names of Democrat Lyndon LaRouche and Republican David Duke on this initial list of selected presidential candidates because neither has qualified for federal funds; all other selected Democratic and Republican candidates have done so. Should other candidates qualify after today, Dr. Eu may add their names to the list until Apr. 4, the date she must certify the presidential candidate list.

###

92012MW

# NEWS RELEASE

from: Secretary of State March Fong Eu  
1230 J Street, Sacramento, CA 95814  
(916) 445-6375

For Immediate Release  
February 4, 1992

Contact: Melissa Warren or  
Shirley Washington

## EU ADDS FULANI TO PRESIDENTIAL PRIMARY BALLOT

SACRAMENTO -- California Secretary of State today (Feb. 4) added Lenora B. Fulani to the June 2 primary election ballot as a candidate for the Peace and Freedom Party's presidential nomination.

"Ms. Fulani's name did not appear on the initial presidential candidate list released last week because I had not yet received documents supporting her candidacy," explained Dr. Eu. "Those documents have now been delivered and therefore I have certified her for the ballot."

Ms. Fulani has qualified for federal matching funds.

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92013MW

For Immediate Release  
February 14, 1992

Contact: Melissa Warren or  
Shirley Washington

#### EU PLACES LIBERTARIAN ON PRESIDENTIAL BALLOT

SACRAMENTO -- California Secretary of State March Fong Eu has placed the name of Andre Marrou on the Libertarian presidential primary ballot. Mr. Marrou's name did not appear on her original list of candidates because he has already received the party's nomination at their convention held late last year. However, to avoid confusion among Libertarian voters, Dr. Eu and party leaders agreed that his name should appear on the ballot in June.

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92015MW

# **EXHIBIT S**

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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Thomas Umberg, Chair  
2019 - 2020 Regular

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**Bill No:** SB 27 **Hearing Date:** 3/19/19  
**Author:** McGuire  
**Version:** 3/11/19  
**Urgency:** Yes **Fiscal:** Yes  
**Consultant:** Darren Chesin

**Subject:** Presidential primary elections: ballot access: tax returns

**DIGEST**

This bill requires candidates for U.S. President to file copies of their income tax returns for the five most recent taxable years with the Secretary of State (SOS) as a precondition for appearing on a California primary election ballot. After redacting the returns for privacy purposes, the SOS would then make the returns public.

**ANALYSIS**

Existing law:

- 1) Provides, pursuant to the U.S. Constitution, that “[n]o person except a natural born citizen, or a citizen of the United States, at the time of adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.”
- 2) States, pursuant to the U.S. Constitution, that “[t]he executive Power shall be vested in a President of the United States of America. He shall... be elected, as follows... Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress...”
- 3) Provides that, in California, political parties may certify a list of nominees for presidential elector to the SOS, who shall then place the names of that political party’s candidates for U.S. President and Vice President on the General Election ballot.
- 4) Provides that, in California, when a group of candidates for presidential electors designates the presidential and vice presidential candidates for whom all of the group pledge themselves to vote, the SOS shall place the names of those presidential and vice presidential candidates on the ballot.
- 5) Permits, in California, a group of candidates for presidential electors to be certified as write-in candidates, in which case the candidates must declare the names of the presidential and vice presidential candidates they pledge to support.



- 6) Provides, pursuant to federal law, that federal tax returns are confidential.
- 7) Provides, pursuant to the U.S. Constitution, that: "[n]o Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State."

This bill:

- 1) Creates the Presidential Tax Transparency and Accountability Act.
- 2) Provides that the Legislature finds and declares all of the following:
  - a) That the State of California has a strong interest in ensuring that its voters make informed, educated choices in the voting booth. To this end, the state has mandated that extensive amounts of information be provided to voters, including county and state voter information guides.
  - b) That a presidential candidate's income tax returns provide voters with essential information regarding the candidate's potential conflicts of interest, business dealings, financial status, and charitable donations. The information in tax returns therefore helps voters to make a more informed decision.
  - c) That as one of the largest centers of economic activity in the world, the State of California has a special interest in the President refraining from corrupt or self-enriching behaviors while in office. The people of California can better estimate the risks of any given Presidential candidate engaging in corruption or the appearance of corruption if they have access to candidates' tax returns.
  - d) That the State of California has an interest in ensuring that any violations of the Foreign Emoluments Clause of the U. S. Constitution or statutory prohibitions on behavior such as insider trading are detected and punished. Mandated disclosure of Presidential candidates' tax returns will enable enforcement of the laws against whichever candidate is elected President.
  - e) That compliance costs with this requirement will be trivial.
- 3) Defines "income tax return" for purposes of this bill as any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for or permitted under, the provisions of the Internal Revenue Code, and that is filed on behalf of, or with respect to any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed.
- 4) Provides that the SOS shall not print the name of a candidate for President of the United States on a primary election ballot, unless the candidate, within a reasonable timeframe established by the SOS, files with the SOS a copy of every income tax return the candidate filed with the Internal Revenue Service (IRS) in the five most

recent taxable years. If the candidate has not filed an income tax return with the IRS for the tax year immediately preceding the primary election, the candidate shall submit a copy of the income tax return to the SOS within five days of filing the return with the IRS.

- 5) Provides that the aforementioned requirement does not apply to any year in which the candidate was not required to file an income tax return with the IRS.
- 6) Requires the SOS to redact the social security number, address, or telephone number of any individual in a submitted income tax return and shall make any other redactions necessary to protect individual privacy. After redacting an income tax return, the SOS shall make it available to the public on the SOS internet website.
- 7) Requires the SOS to adopt implementing regulations.
- 8) Contains an urgency clause.

### **BACKGROUND**

Presidential Candidates' Tax Returns. In 1973, the Providence Journal-Bulletin obtained and published data showing that President Richard Nixon had paid an astonishingly low amount in taxes in 1969 given his income for that year. After initially resisting calls for him to do so, Nixon eventually released his taxes and underwent an IRS audit. It turned out he had improperly claimed an exemption of \$500,000 for papers he donated to the National Archives.

Ever since this incident, it has been customary – though never required by law – for U.S. Presidential candidates to release their tax returns. Prior to 2016, only one candidate, President Gerald Ford in 1976, did not do so. Ford released a summary of his return instead.

During the 2016 campaign for U.S. President, Donald Trump broke with this longstanding tradition and refused to release his tax returns. Though prompted by Trump's break with the customary practice, this bill is not retroactive and would only apply to future presidential candidates.

Tax returns provide key financial information about the filer. A tax return indicates the filer's income, what income-generating assets the filer owns, how much the filer is saving, how much the filer has paid in taxes, and what, if any, charitable contributions the filer has made. While some of this information is partially captured in a candidate's mandatory Federal Elections Commission filing, the information contained in a tax return is broader and more specific.

Constitutionality. According to the National Conference of State Legislatures, within the last two years, legislation has been introduced in just over half of the states to require future presidential candidates to disclose income tax returns in order to be placed on the ballot. While none of those bills have yet to be enacted, they have resulted in numerous media articles and reports discussing and questioning their constitutionality -- specifically asking whether, under the U.S. Constitution, a state can require candidates

for U.S. President to release their tax returns publicly as a precondition for appearing on the ballot.

While the courts have not ruled directly on this question, the U.S. Supreme Court has ruled on ballot access requirements for congressional candidates and has held that states and the federal government cannot add to the qualifications of Senator or congressional representatives outlined in the federal Constitution. In 1995, the U.S. Supreme Court ruling in *U.S. Term Limits v. Thornton* (1995) 514 U.S. 779, held that Arkansas could not deny ballot access to congressional candidates who served more than three terms or to Senate candidates who served more than two terms, essentially striking down measures the state had enacted to create congressional term limits. Furthermore the court ruled that the U.S. Constitution set the exclusive qualifications running for federal office (including age and citizenship requirements), and that states do not have the authority to alter or add to the terms contained in them.

The courts have also allowed states the authority to set reasonable conditions for candidates for federal elective office in order to ensure serious candidates appear on the ballot. Such conditions include common mechanisms such as a filing fee or securing a sufficient number of voters' signatures on a petition. However, such conditions cannot go further and set substantive conditions for who can run. In *Storer v. Brown* (1974) 415 U.S. 724, 732-733, the court upheld a California law that prohibited an independent candidate from running if he had registered with a party or voted in the preceding party primary and required candidates to complete a petition with 5% of signatures from the preceding general election, as specified. The court upheld the law as it applied to congressional candidates and affirmed that provisions that merely regulate access to the ballot are constitutionally permissible even though those requirements are not contained in the relevant constitutional Qualifications Clause.

In sum, *Term Limits* stands for the proposition that states cannot use ballot access provisions to add or alter the qualifications for federal elective office, while *Storer* affirms that provisions that merely regulate access to the ballot are constitutionally permissible.

The Senate Judiciary Committee, which did a thorough analysis of the constitutional questions and issues raised in this bill, examined where the line between *Term Limits* and *Storer* lies and on which side a ballot access requirement to release tax returns would fall. Their analysis for a similar bill, SB 149 (McGuire) of 2017, concludes that it falls within a muddled and evolving area of constitutional jurisprudence and, if enacted, will likely be challenged in court.

In a September 7, 2017 letter to Assemblymember Chad Mayes, the Legislative Counsel concluded that, if enacted, SB 149 would violate the Qualifications Clause of the U.S. Constitution largely based on the *Term Limits* decision. In response to that letter, the author's office has provided the committee with two separate memorandums authored by California law school professors challenging Legislative Counsel's conclusion.

COMMENTS

- 1) According to the author: Throughout his campaign, President Donald Trump refused to release his tax returns, even as his Republican, Democratic and third-party opponents did so.

Releasing tax returns to the public is a long held tradition by all major party Presidential candidates in the modern era. This practice assured the public that all potential Presidential candidates were complying with the emoluments clause.

The American public deserves to know that the individual they are selecting to be president will have their best interests at the heart of every decision, not the best interests of any business venture or investment fund. Transparency is a non-partisan issue.

There are pressing questions for voters to have answers for before an election, because unlike members of Congress and federal appointees, presidents are largely exempt from conflict-of-interest laws.

Voters not only deserve full disclosure of their future leader's tax returns, they should be entitled to them.

- 2) Argument in Support. In a letter of support, the Service Employees International Union (SEIU) stated, in part, the following:

*Presidential candidate's income tax returns provide voters with essential information regarding the candidate's potential conflicts of interest, domestic and international business dealings, financial status, and charitable donations. These are pressing questions for voters to have answers for before an election, because unlike members of Congress and federal appointees, presidents are largely exempt from conflict-of-interest laws.*

- 3) Argument in Opposition. In a letter of opposition, Richard Winger, Editor of Ballot Access News, stated, in part, the following:

*I urge you to abandon SB 27, the presidential tax returns bill. I am just as desirous as anyone else that President Trump's tax returns be made public, but your bill will not achieve that objective because it will be held unconstitutional.*

*Federal and state courts in California have long held that states cannot keep people off the ballot, if they meet the U.S. Constitutional requirements, and if they satisfy a procedural aspect of an election or require a candidate to show a minimum level of support before running.*

RELATED/PRIOR LEGISLATION

SB 149 (McGuire and Wiener) of 2017, is identical to this bill save for the urgency clause. SB 149 was vetoed by Governor Brown. In his veto message, the Governor stated the following:

*Although tax returns are by law confidential, many presidential candidates have voluntarily released them. This bill is a response to President Trump's refusal to release his returns during the last election.*

*While I recognize the political attractiveness -- even the merits -- of getting President Trump's tax returns, I worry about the political perils of individual states seeking to regulate presidential elections in this manner. First, it may not be constitutional. Second, it sets a "slippery slope" precedent. Today we require tax returns, but what would be next? Five years of health records? A certified birth certificate? High school report cards? And will these requirements vary depending on which political party is in power?*

*A qualified candidate's ability to appear on the ballot is fundamental to our democratic system. For that reason, I hesitate to start down a road that well might lead to an ever escalating set of differing state requirements for presidential candidates.*

SR 23 (Wiener) of 2017, among other things, urged President Trump to release his tax returns. SR 23 was adopted by the Senate on a vote of 24-10.

SB 505 (Umberg) of 2019, which will be heard in this committee at a later date, will clarify the criteria that a candidate must meet in order to appear on the California presidential primary ballot. SB 505, however, does not address disclosure of candidates' tax returns.

POSITIONS

**Sponsor:** Author

**Support:** California Labor Federation  
California Teachers Association  
City of West Hollywood  
Courage Campaign  
Progressive Democracy for America – Marin  
Secretary of State Alex Padilla  
Service Employees International Union

**Oppose:** Libertarian Party of California  
Richard Winger, Editor, Ballot Access News

-- END --

# **EXHIBIT T**

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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Thomas Umberg, Chair  
2019 - 2020 Regular

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<b>Bill No:</b>	SB 505	<b>Hearing Date:</b>	4/2/19
<b>Author:</b>	Umberg		
<b>Version:</b>	3/25/19		
<b>Urgency:</b>	Yes	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Scott Matsumoto		

**Subject:** Presidential primary elections

**DIGEST**

This bill makes changes to the filing requirements for presidential candidates seeking to compete in California's primary election.

**ANALYSIS**

Existing law:

- 1) Provides, pursuant to the U.S. Constitution, that "[n]o person except a natural born citizen, or a citizen of the United States, at the time of adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."
- 2) States, pursuant to the U.S. Constitution, that "[t]he executive Power shall be vested in a President of the United States of America. He shall... be elected, as follows... Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress..."
- 3) Permits, pursuant to the California Constitution, that the Legislature provides for partisan elections for presidential candidates, including a "presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy."
- 4) Provides specific procedures by which the Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party, and the Green Party to participate in a presidential primary election.
- 5) Requires the Secretary of State (SOS) to place the name of a candidate seeking the nomination of the Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party, or the Green Party for the office of President of the United States on the presidential primary ballot when SOS determines that the

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candidate is generally advocated for or recognized throughout the United States as actively seeking the nomination of the party.

- 6) Requires the SOS to announce and distribute to the news media a list of candidates the SOS intends to place on the ballot a specified number of days before the presidential primary election. Specifically:
  - a) Between the 150th and the 68th day preceding a presidential primary for Democratic Party candidates.
  - b) On or before the 120th day preceding a presidential primary for the Republican Party, American Independent Party, Peace and Freedom Party, and Green Party candidates.
- 7) Requires the SOS to send a letter to specified officials in the Green Party as well as the Peace and Freedom Party soliciting additional information regarding the placement of candidates from those parties on the ballot on or before the 150th day preceding a presidential primary election.
- 8) Requires an unselected candidate or uncommitted delegation seeking the nomination of a party that desires to be placed on the presidential primary ballot to have nomination papers circulated for signature on behalf of the candidacy.
- 9) Authorizes a circulator of nomination papers to obtain signatures during a specified period before the presidential primary election. Specifically:
  - a) Between 130 and 73 days prior to the presidential primary election for Democratic Party candidates.
  - b) Between 104 and 74 days prior to the presidential primary election for Republican Party, American Independent Party, and Peace and Freedom Party candidates.
- 10) Requires the nomination papers be prepared, circulated, signed, certified, and left for examination with the county elections officials of the county in which the papers are circulated a specified number of days before the presidential primary election. Specifically:
  - a) At least 73 days prior to the presidential primary election for Democratic Party candidates.
  - b) At least 74 days prior to the presidential primary election for Republican Party, American Independent Party, Peace and Freedom Party, and Green Party candidates.

This bill:

- 1) Defines "general advocated for or recognized candidate" or "recognized candidate" as a candidate for the office of President of the United States who meets and submits proof of at least two of the following criteria:



- a) The candidate is qualified for funding under the Federal Election Campaign Act of 1974 (52 U.S.C. Sec. 30101 et seq.).
  - b) The candidate has appeared as a candidate in a national presidential debate hosted by a political party qualified to participate in a primary election, with at least two participating candidates, which is publicly available for viewing by voters in multiple states during the current presidential election cycle.
  - c) The candidate has been placed or has qualified for placement on a presidential primary or caucus ballot in at least one other state in the current presidential election cycle.
  - d) The candidate has all of the following:
    - a.i) At least one presidential campaign office in California.
    - a.ii) A current presidential campaign internet website.
    - a.iii) A statement of candidacy filed with the Federal Election Commission seeking the office of the president of the United States.
    - a.iv) A written request submitted on the candidate's behalf to the SOS requesting that the candidate be placed on the presidential primary ballot. The written request shall be from a party qualified to participate in a primary election and is the party that appears on the candidate's most recent affidavit of registration.
- 2) Requires a candidate to submit a form to the SOS proving a candidate meets the aforementioned criteria for a "general advocated for or recognized candidate" or "recognized candidate."
  - 3) Changes the dates for the SOS to send a letter to specified officials in the Green Party as well as the Peace and Freedom Party soliciting additional information regarding the placement of candidates from those parties on the ballot to on or before the 120th day preceding a presidential primary election.
  - 4) Changes the dates for SOS to announce and distribute to the news media a list of candidates the SOS intends to place on the ballot to 88 days before the presidential primary for the Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party, or the Green Party.
  - 5) Changes the dates that authorizes a circulator of nomination papers to obtain signatures during a specified period before the presidential primary election to between 120 and 81 days prior to the presidential primary election for the Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party, or the Green Party candidates.
  - 6) Changes the dates that nomination papers be prepared, circulated, signed, certified, and left for examination with the county elections officials of the county in which the papers are circulated at least 81 days before the presidential primary election for

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Democratic Party, the Republican Party, the American Independent Party, the Peace and Freedom Party. This bill adds the Green Party to this deadline.

7) Makes technical and conforming changes.

8) Contains an urgency clause.

### **BACKGROUND**

Generally Recognized Candidates. In the 1968 presidential primary, California voters were unable to select the eventual Republican and Democratic Party nominees for President because the nominees chose not to contend or participate in the state's primary. According to an analysis from the June 1972 voter information guide, at the time, statutory law provided for the election of slates of delegates to the conventions of political parties. Each slate of candidates (delegates) to be voted for is designated either as a slate expressing a preference for a particular candidate for nomination or as a slate expressing no preference. Each slate of candidates (delegates) qualified for placement on the ballot of a political party by filing nomination petitions signed by a specified number of eligible signatories.

As a result, in California, presidential primary ballots for the major political parties only listed those candidates who petitioned to appear on the ballot. To remedy this issue, Proposition 4 was placed on the June 1972 ballot. Proposition 4, among other provisions, required the Legislature to provide for a presidential primary in which candidates on the ballot are those found by the SOS to be recognized candidates throughout the nation or California for the office of President of the United States. In an argument in favor for Proposition 4 from June 1972 voter information guide, Senators Alfred E. Alquist and Howard Way stated, "The present system of selecting presidential candidates often leaves the voter without a direct voice in the decision. The 'favorite son' device has been used by Governors from both parties to prevent a contested primary, depriving the voters of a chance to vote for the candidate of his choice." California voters approved Proposition 4 and gave the SOS unilateral authority to add the names of serious nominees, or what was codified as "generally recognized" candidates, for presidential office. However, while there are existing guidelines for the petition process to secure the party nomination, there continued to be a lack of statutory guidance to provide potential candidates transparency in the process in regards to whom the SOS recognizes as a presidential candidate.

### **COMMENTS**

1) According to the author: Presidential candidates are not required to file formal paperwork or submit documentation with the Secretary of State's office to appear on the ballot. Current law does not provide statutory guidance for candidates to obtain ballot access and, consequently, has led to confusion and lawsuits. Since the Secretary of State decides who are "recognized candidates throughout the nation or throughout California," any excluded candidate regardless of eligibility or desire for their respective party's nomination could challenge their exclusion and could result in unnecessary administrative costs to the state. By requiring the submission of a form, candidates would need to show a basic level of support and seriousness when seeking the highest office in the county.

2) Argument in Support. As the sponsor of the SB 505, Secretary of State, Alex Padilla stated, in part, the following:

*California voters deserve to have candidates for President - of all parties - take California issues seriously. With our primary election now scheduled for March, the most populous state in the nation will play a major role in the presidential nominating process. The absence of clarity has led to litigation from a candidate who did not meet the federal age requirement for the Presidency and a candidate who ran merely to increase their career as a stand-up comedian.*

*Under current law, the Secretary of State places on the ballot the names of candidates for President if they are "generally recognized" as running. Currently, candidates are not even required to submit documentation or file formal paperwork with the Secretary of State's office to appear on the California primary ballot.*

*SB 505 would define criteria that candidates must meet in order to qualify as being "generally recognized" for a presidential nomination.*

#### **RELATED/PRIOR LEGISLATION**

SB 27 (McGuire) of 2019, requires candidates for President of the United States to file copies of their income tax returns for the five most recent taxable years with the SOS as a precondition for appearing on a California primary election ballot. This bill is nearly identical to SB 149 (McGuire and Wiener) of 2017.

SCA 3 (Alquist), Resolution Chapter 274 of 1971, among other provisions, placed on the 1972 primary ballot the question whether California should have a Presidential primary that required the SOS to place all publicly recognized candidates for President on the primary ballot. This appeared as Proposition 4 on 1972 primary ballot where it was approved by California voters.

#### **POSITIONS**

**Sponsor:** Secretary of State, Alex Padilla

**Support:** None received

**Oppose:** None received

-- END --

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **Patterson, Jessica Millan et al v. Alex Padilla**  
No.: **S257302**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On September 5, 2019, I served the attached

**RESPONDENT CALIFORNIA SECRETARY OF STATE ALEX  
PADILLA'S RESPONSE TO ORDER TO SHOW CAUSE  
with Exhibits A to T**

by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Charles H. Bell, Jr.  
Bell, McAndrews & Hiltachk, LLP  
455 Capitol Mall, Suite 600  
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 5, 2019, at San Francisco, California.

\_\_\_\_\_  
G. Garcia  
Declarant

\_\_\_\_\_  
  
Signature