

S257302

Case No.

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

JESSICA MILLAN PATTERSON
And
CALIFORNIA REPUBLICAN PARTY

Petitioners,

v.

ALEX PADILLA,
California Secretary of State, In His Official Capacity

Respondent.

**EMERGENCY PETITION FOR WRIT OF MANDATE
OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF CHARLES H. BELL, JR**

ELECTION LAW MATTER ENTITLED TO CALENDAR
PREFERENCE PURSUANT TO CALIFORNIA CODE OF CIVIL
PROCEDURE § 35; ELECTION CODE § 13314(a)(3).

**IMMEDIATE RELIEF REQUESTED – NO LATER THAN
NOVEMBER 4, 2019**

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IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

California Rules of Court, rules 8.208, 8.490(i), 8.494(c), 8.496(c), or
8.498(d)

Supreme Court Case Caption:

JESSICA MILLAN PATTERSON
and
CALIFORNIA REPUBLICAN PARTY,

Petitioners,

v.

ALEX PADILLA,
California Secretary of State, In His Official Capacity

Respondent.

Please check here if applicable:

- There are no interested entities or persons to list in this Certificate as defined in the California Rules of Court.



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Party Represented: *Petitioners*

TABLE OF CONTENTS

	<u>Page(s)</u>
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	2
EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF	6
INTRODUCTION	6
PARTIES	8
TIMELINESS OF PETITION AND REQUESTED RELIEF	18
IRREPARABLE INJURY/NECESSITY FOR RELIEF	20
PRAYER	22
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF	23
I. INTRODUCTION.....	23
II. ARGUMENT.....	24
A. The Text Of Article II, Section 5(c) Is Clear And Unambiguous And Delegates To The Secretary Of State The Sole Authority To Identify Presidential Candidates And To Place Their Names On The Presidential Primary Ballot.	24
1. The Plain Text of SB 27 Conflicts with Cal. Const., Article II, section 5(c).	25
2. The Ballot Materials Presented to the Public When It Passed Article II, section 5(c), and Later Amendments, Reveals That SB 27 Conflicts With It.	26
3. The Secretary of State Exercises Independent Constitutional Authority in The Placement of Candidates on the Ballot.....	29
B. Writ Relief is Appropriate Now	30
C. Irreparable Injury Will Harm Petitioners, and More Broadly, Voters of the State of California, if Relief Is Not Granted Promptly	31
D. Petitioners Have Standing to Sue and the Secretary of State is the Proper Respondent.....	31
E. Irreparable Injury Will Result if Petitioners’ Writ Is Not Granted	32
III. CONCLUSION	35
DECLARATION OF CHARLES H. BELL, JR.	36

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Cases	
<i>Anderson v. Celebrezze</i> (1983) 460 U.S. 780	26
<i>Assembly v. Deukmejian</i> (1981) 30 Cal.3d 638	11
<i>England v. Louisiana Board of Medical Examiners</i> (1964) 375 U.S. 411	7
<i>Eu v. San Francisco County Democratic Central Committee</i> (1989) 489 U.S. 214	34
<i>Legislature v. Reinecke</i> (1973) 10 Cal.3d 396	11
<i>Miller v. Municipal Court of City of Los Angeles</i> (1943) 22 Cal.2d 818	25
<i>People ex. rel. Younger v. County of El Dorado</i> (1971) 5 Cal. 3d 480, 491	21
<i>San Francisco Labor Council v. Regents of University of California</i> (1980) 26 Cal.3d 785	30
<i>Senate v. Jones</i> (1999) 21 Cal.4th 1142	11
<i>Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority</i> (2008) 44 Cal.4th 431	27
<i>Silver v. Brown</i> (1965) 63 Cal.2d 270	11
<i>Tashjian v. Republican Party</i> (1986) 479 U.S. 208	14, 33
<i>U.S. Term Limits, Inc. v. Thornton</i> (1995) 514 U.S. 779	26
<i>Vandermost v. Bowen,</i> (2012) 53 Cal.4th 421	11, 23

<i>Wilson v. Eu</i>	
(1991) 54 Cal.3d 546	11

Constitutional Provisions

California Constitution	
Article II, section 5.....	<i>passim</i>
Article VI, section 10	11

United States Constitution	
Article 2.....	8, 26

Codes

Code of Civil Procedure	
section 35	24
sections 1085	11, 21, 32
sections 1086.....	11, 21, 32

Elections Code	
section 321	31
section 6041	15
section 6340	15
section 6520	15
section 6720	15
section 6850	15
section 6880	16
section 6883	<i>passim</i>
section 6884	<i>passim</i>
section 13102	15
section 13314	11, 21, 23, 31, 32
section 15375	32

Government Code	
section 12172	11

California Rules of Court	
Rule 8.486	11

Other Authorities

Proposition 14 (2010).....	28
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Steven G. Calabresi, James Lindgren, <i>The President: Lightning Rod or King?</i> (2006) 115 Yale L.J. 2611.....	10, 34
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**EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER
EXTRAORDINARY OR IMMEDIATE RELIEF**

**TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE
OF THE SUPREME COURT OF CALIFORNIA AND TO THE
HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT
OF CALIFORNIA:**

INTRODUCTION

Our State Constitution requires the Secretary of State to identify all nationally-known candidates for President of the United States and to place their names on the primary election ballot for nomination by his or her respective political party. In the case of the Democratic Party, that list of candidates in 2020 may be a dozen or more candidates. In the case of the Republican Party, that list might be just one or two candidates. One of those candidates is likely to be the incumbent. Just days ago, a statute was enacted that directly conflicts with the express duty assigned to the Secretary of State in our State Constitution by prohibiting him from placing the name of a legitimate candidate for President on the primary ballot unless and until that candidate provides to the Secretary of State 5 years of personal and confidential income tax returns.

The merits of that policy are not at issue here. What is at issue is that SB 27 clearly violates Article II, section 5(c) of the California Constitution. As indicated more fully below, this provision of our Constitution was proposed by the Legislature and enacted by the voters to guarantee California voters the right to consider *all* of the candidates seeking election to the highest office in the land. In prior elections, California politicians rigged the primary election, putting up “favorite son” nominees for partisan political advantage. Californians were denied the right to vote on the candidates who were actually running for the office of President. The voters changed that with the enactment of Proposition 4 in 1972 by

eliminating the game play and requiring the Secretary of State to place the name of all presidential candidates on the ballot.

SB 27 upends that reform. Not only does SB 27 deny access to the ballot for any legitimate candidate who does not want to provide his unredacted tax return to a state government agency, it may suppress voter turn-out – affecting the elections held at the same time for Congressional and legislative seats. Data proves and studies have shown that voter turn-out in a presidential primary is much larger than in a non-presidential primary and that the “top of the ticket” is an important factor in voter turn-out. Voter turn-out is important to *every* race on the ballot, not just the “top of the ticket” race.

In California, our state legislative and congressional elections are “top two” elections, whereby the top two vote getters, regardless of party, are advanced to the general election. If Republican turn-out is reduced because the incumbent President’s name is not placed on the ballot, the trickle-down effect of that will reduce the Party’s chance to qualify candidates in the top two primary in many state legislative and congressional districts. Indeed, a cynic might suggest that SB 27 is intended to have that very effect.

By this petition for extraordinary relief, Petitioners JESSICA MILLAN PATTERSON and the CALIFORNIA REPUBLICAN PARTY ask this Court to intervene immediately and uphold the clear and direct requirements of our Constitution.

While Petitioners may have, and do not by this narrowly-focused petition waive, additional federal or state constitutional claims they may have and assert (*England v. Louisiana Board of Medical Examiners* (1964) 375 U.S. 411, 419-421), the clear violation of Article II, section 5(c) set forth herein provides the Court the speedy, effective and complete relief from this

illegitimate legislative act which threatens massive voter suppression in the upcoming 2020 elections.¹

PETITIONER RESPECTFULLY REQUESTS IMMEDIATE RELIEF, NOT LATER THAN NOVEMBER 4, 2019.

Question Presented: The limited question presented here is whether Elections Code sections 6883 and 6884, as enacted in SB 27, are unconstitutional by prohibiting the Secretary of State from exercising his constitutionally delegated duty to place the name of all nationally recognized Presidential candidates, or candidates who qualify by petition, on the primary election ballot if one or more of the candidates do not provide the Secretary 5 years of the candidate’s federal income tax returns?

PARTIES

1. Petitioners, **JESSICA MILLAN PATTERSON** and **CALIFORNIA REPUBLICAN PARTY** (“Petitioners”) seek this Court’s extraordinary

¹ Petitioners have filed this lawsuit because the Eleventh Amendment bars them from pursuing their claims against state officials under the California Constitution in federal court. Pursuant to *England v. State Board of Medical Examiners*, 375 U.S 411 (1964), and *United Parcel Service v. California Public Utilities Comm’n*, 77 F.3d 1178 (9th Cir. 1996), Petitioner respectfully reserves its right to have the U.S. District Court for the Eastern District of California address their federal challenges to the Act, including but not limited to its claims that the Act adds a new qualification for President in violation of the Qualifications Clause, U.S. Const., art. II, sec. 1, cl. 5; impermissibly burdens the rights to vote and of political association by adopting an invalid ballot-access requirement in violation of the First and Fourteenth Amendments, *id.* amend. I, XIV; abridges the CAGOP’s right to control its nomination process and associate with the candidates of its choice, in violation of the First and Fourteenth Amendments, *id.*; violates the Privileges or Immunities Clause, *id.* amend. XIV; and violates the Equal Protection Clause by discriminating between candidates seeking party nominations and independent candidates, *id.*

relief to prohibit Respondent, Secretary of State **ALEX PADILLA** from enforcing the unconstitutional portions of SB 27, the “Presidential Tax Transparency and Accountability Act,” enacted by the Legislature and signed by Governor Gavin Newsom on July 30, 2019, and which became effective immediately (A true and correct copy of SB 27, as chaptered, is attached hereto and incorporated herein as Exhibit “A”).

2. Petitioner **JESSICA MILLAN PATTERSON** (“Patterson”) is an individual California voter, a registered Republican, and current Chairperson of the Petitioner California Republican Party. Petitioner desires to participate as a voter and to lead her state political party by supporting the inclusion of all qualified Republican Presidential candidates in the open Presidential primary, and the “top two” primary in all other state races, including over 120 Congressional and legislative seats, as provided for in the State Constitution. Petitioner Patterson has substantial, reasonable fears that her vote, as well as those of millions of other Republican voters, to vote for candidates for President and other state and federal offices that will appear on the March 3, 2020 primary ballot under California’s voter-nominated “Top Two Primary” system, will be diluted and abridged by this legislative act. She also fears that a large number of Republican voters will be suppressed and discouraged from voting at the primary election as a result of the Secretary of State’s implementation of SB 27, if qualified Republican candidates are excluded from the Republican Party’s Presidential primary ballot. These fears are reasonable, in light of the Secretary of State’s own voter turn-out data comparing turn-out in Presidential and non-Presidential election years, which show that Presidential primary election turn-out regularly has substantially exceeded non-Presidential primary election turn-

out since the 1950s, and that the “top of the ticket” effect is particularly strong in Presidential election year primaries. (See Exhibit “B,” a true and correct copy of a chart maintained by the Secretary of State, entitled “Historical Voter Registration and Participation in Statewide Primary Elections 1914-2018,” which is also accessible at <https://elections.cdn.sos.ca.gov/sov/2018-primary/sov/04-historical-voter-reg-primary.pdf> > last accessed July 31, 2019). The “coattail effect” on down-ticket candidates also is a well-recognized political phenomenon and demonstrates the potential harm to the Party’s “top two” primary candidates in other federal and state election races if its Presidential candidates are not permitted to appear on the ballot. (See Steven G. Calabresi, James Lindgren, *The President: Lightning Rod or King?* (2006) 115 Yale L.J. 2611, 2612 [describing the “coattail effect” of the presidential candidate on down-ballot candidates of the president’s party]; FairVote, Voter Turnout, available at [#voter_turnout_101](https://www.fairvote.org/voter_turnout) > [as of August 1, 2019].)

3. Petitioner **CALIFORNIA REPUBLICAN PARTY** (“the PARTY”) is the ballot-qualified statewide political party representing more than 4.7 million registered Republican voters, individuals who have joined together to advance common political beliefs and seek to join together to express those views through active participation in the political process, associating to nominate and elect candidates for the office of President of the United States, federal and state offices. To achieve these ends, the PARTY and its adherents participate in the partisan Presidential primary and voter-nominated primaries in which candidates are nominated by voters for federal offices (U. S. Senate and House of Representatives) and state constitutional,

legislative and Board of Equalization district offices. The PARTY submitted a message to Governor Gavin Newsom urging him to veto SB 27, just as his predecessor former Governor Jerry Brown had vetoed a similar bill, SB 149 (McGuire), in 2017.

4. Respondent Secretary of State **ALEX PADILLA** (“Secretary Padilla”), is the Chief Elections Officer of the State of California (Gov. Code section 12172.5(a)). He is named in his official capacity only. The Secretary of State is mandated to “see that elections are efficiently conducted and that state election laws are enforced.” Respondent has indicated his intention to enforce SB 27.

JURISDICTION

5. This Court has original jurisdiction over this matter pursuant to article VI, section 10 of the California Constitution, Elections Code section 13314, Code of Civil Procedure sections 1085 and 1086, and Rule 8.486 of the California Rules of Court, to decide a dispute where, as here, the case presents issues of great public importance that must be resolved promptly. This is such a case because it involves the people’s right to vote for candidates for President in the March 3, 2020 primary election and the potential for voter suppression. As the Court held in *Vandermost v. Bowen*, (2012) 53 Cal.4th 421, 452:

In past cases, this court has repeatedly exercised authority to entertain and decide petitions for original writs of mandate related to the referendum, initiative, and redistricting process in circumstances in which an expeditious ruling was necessary to the orderly functioning of the electoral system. (See, e.g., *Senate v. Jones* (1999) 21 Cal.4th 1142; *Wilson v. Eu* (1991) 54 Cal.3d 546; *Wilson v. Eu*, supra, 1 Cal.4th 707; *Assembly v. Deukmejian* (1981) 30 Cal.3d 638; *Legislature v. Reinecke* (1973) 10 Cal.3d 396; *Silver v. Brown* (1965) 63 Cal.2d 270.)

FACTS AND LAW

6. Under Article II, section 5(c) of the California Constitution, “The Legislature shall provide for partisan elections for presidential candidates, . . . 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 of noncandidacy.” This provision of our Constitution was approved by the voters in 1972. The section was renumbered and amended twice thereafter, but the exclusive delegated duty for the Respondent to place all recognized candidates for President on the primary ballot is unchanged.

7. The California Constitution guarantees the right of the people to an “open Presidential primary.” (Cal. Const. Art. II, §5(c).) This provision was originally numbered Article II, section 8, and was added to the Constitution by Proposition 4, a legislative constitutional amendment (SCA 3) adopted by the People on June 6, 1972. Proposition 4 clearly delegated to the Secretary of State alone the duty to find and place on the ballot all nationally - and California - recognized candidates for President on the Presidential primary ballot. The Assembly Committee on Constitutional Amendments’ Analysis of SCA 3 makes clear that “Secretary of State would be **required** to place all recognized candidates for president on the primary ballot.” (Emphasis added.) (See Exhibit “C,” a true and correct copy of the Assembly Committee on Constitutional Amendments’ Bill Analysis, SCA 3, November 3, 1971, attached hereto and incorporated herein by this reference.)

8. The voters were further informed that the duty to place the names of all recognized candidates for the office of President on the primary ballot

would be given to the Secretary of State. A true and correct copy of portions of the Voter Information Guide for the June 6, 1972 Primary related to Proposition 4 is attached hereto as Exhibit “D” and made a part hereof by this reference. Proposition 4, according to the Analysis provided to voters, required “the Secretary of State to place upon the presidential primary ballot *of the appropriate political party* as its candidates for the office of President of the United States, the names of those persons who he determined to be either (a) recognized as candidates throughout the nation or (b) recognized as candidates throughout California.” (Italics added.) The measure also allowed candidates to qualify for the presidential primary ballot by nominating petition as well as to allow the name of any candidate to be excluded from the ballot if the candidate withdrew from consideration by the filing of an affidavit that he or she was not a candidate.

9. The legislative history of Proposition 4 shows that it was intended to increase voters’ opportunity to cast votes for Presidential candidates. (See Legislative Analysis of Proposition 4, June 6, 1972 Primary Election, attached hereto as Exhibit “E” and incorporated by reference herein.) The backdrop to adoption of Proposition 4, was an effort to overcome the role of “favorite son” candidates locking other national competitors out of the California Presidential primary. Proposition 4 was a response to a “favorite son” device whereby “Governors from both parties [would] prevent a contested primary, depriving the voters of a chance to vote for the candidate of his choice.” (Exhibit D, Argument in Favor of Proposition 4.) Importantly, the Argument noted that “[i]t is time the voters have a say in nominating their party’s candidate for the highest office in the land.” (*Id.*) For example, in 1960, then-Governor Pat Brown’s “favorite son” candidacy discouraged John F. Kennedy, Hubert Humphrey and Lyndon Johnson from entering the 1960 Democratic Presidential primary, and in 1968, then-Governor Ronald Reagan’s “favorite son” candidacy discouraged Richard Nixon and Nelson

Rockefeller from entering the 1968 Republican Presidential primary.

10. The provisions of Article II, section 8 as adopted in June 1972 were slightly modified by Proposition 4 (SCA 32) at the November 7, 1972 General Election, at which the section was renumbered Article II, section 3, and adopted the language “The Legislature shall provide for primary elections for partisan offices, including an open presidential primary” with the remaining language delegating authority to the Secretary of State to find and place on the ballot “recognized candidates throughout the nation or throughout California,” unchanged. A true and correct copy of portions of the Voter Information Guide for the November 7, 1972 Primary related to Proposition 4 is attached hereto as Exhibit “F” and made a part hereof by this reference.

11. Proposition 14 was approved by the voters at the June 8, 2010 Primary. Proposition 14 replaced the partisan primary requirement for United States Senate, Congress, and all state Constitutional and legislative offices to a “voter-nominated” system in which the top two candidates in the primary would qualify for the general election, without regard to their party affiliation. Because of this, Proposition 14 also amended the first sentence of the prior section to state: “The Legislature shall provide for partisan elections for presidential candidates, and political party and party central committees...,” which the Legislative Analysis makes clear was to retain the “partisan Presidential primary.” (See Ballot Title and Summary and Legislative Analysis of Proposition 14, June 8, 2010 Primary Election, attached hereto as Exhibit “G” and incorporated by this reference herein.)

12. At present, Article II, section 5(c) recognizes and authorizes an “open Presidential primary.” In this context, “open” means open *to all candidates* that the Secretary of State “finds” to be “nationally - or California - recognized candidates” whom he places on each party’s Presidential primary ballot and to candidates not selected by the Secretary of State who qualify by

petition.² Under current law, that political party choice is set forth in Elections Code § 13102(b) and (c), which permit each ballot qualified political party by rule noticed to the Secretary of State to open its Presidential primary to voters who do not express a party preference. (See also, Elec. Code § 6041 (Democratic Party); § 6340 (Republican Party); § 6520 (American Independent Party); § 6720 (Peace & Freedom Party); § 6850.5 (Green Party)). At present, according to the Secretary of State, the Democratic Party, Libertarian Party and American Independent Party have

² The term “closed Presidential primary,” in which the political parties retain the right and option to “close” their Presidential primary by limiting it to voters registered or expressing a preference on their voter registrations for that party, or open it to voters registered as expressing no political party preference. (*Tashjian v. Republican Party* (1986) 479 U.S. 208, 220.) The Secretary of State’s website describes the primary process, including the Presidential primary, as follows:

How are primary elections conducted in California?

All candidates for voter-nominated offices are listed on one ballot and only the top two vote-getters in the primary election – regardless of party preference - move on to the general election. Write-in candidates for voter-nominated offices can only run in the primary election. A write-in candidate will only move on to the general election if the candidate is one of the top two vote-getters in the primary election.

Prior to the Top Two Candidates Open Primary Act, the top vote-getter from each qualified political party, as well as any write-in candidate who received a certain percentage of votes, moved on to the general election.

The Top Two Candidates Open Primary Act does not apply to candidates running for U.S. President, county central committee, or local office.

How are presidential primary elections conducted in California?

Qualified political parties in California may hold presidential primaries in one of two ways:

- Closed presidential primary - only voters indicating a preference for a party may vote for that party’s presidential nominee.
- Modified-closed presidential primary - the party also allows voters who did not state a party preference to vote for that party’s presidential nominee.

If a qualified political party chooses to hold a modified-closed presidential primary, the party must notify the California Secretary of State no later than the 135th day before Election Day.

(Secretary of State’s Website < <https://www.sos.ca.gov/elections/frequently-asked-questions/>>, [as of August 1, 2019].

modified their closed Presidential primaries to voters expressing no party preference, while the others (Republican, Green and Peace & Freedom) have not.³

13. SB 27 violates the Constitution by prohibiting Respondent PADILLA from exercising his **exclusive, delegated constitutional authority** in article II section 5(c), by those portions of SB 27 applicable to Presidential primary candidates (i.e., Elec. Code §§ 6883 and 6884) that prohibit him from placing on the Presidential primary ballot any candidate who has failed to file with him within 98 days of the March 3, 2020 Primary election the candidate's 5 most recent federal income tax returns.

SB 27 (Ch. 121 – Stats. 2019-2020)

14. On July 11, 2019, the California Legislature passed SB 27, the “Presidential Tax Transparency and Accountability Act.” On July 30, 2019, Governor Gavin Newsom signed the legislation into law (Exhibit “A”). SB 27 is an urgency statute and has taken effect immediately upon the Governor's signature. The legislation enacts new chapter 7 of part 1 of division 6 of the Elections Code (commencing with section 6880) providing for mandatory disclosure by Presidential candidates of the last 5 years of their federal tax returns and public disclosure of the same.

Section 6883 provides, in relevant part:

³ The Legislature has adopted statutes implementing its duty to provide for partisan Presidential elections in Article II, section 5(c) by enacting time, place and manner rules for ballot qualified parties to select delegates to their national party conventions, for Presidential candidate qualification for the primary ballot by petition, and canvass of the returns of partisan primaries. See, e.g., Part 1 of Division 6 of the Elections Code (commencing with section 6000): Chapter 1, §§ 6000a-6241 (Democratic Party Presidential Primary); Chapter 2, §§ 6300-6480 (Republican Party Presidential Primary); Chapter 3, §§ 6500-6647 (American Independent Party Presidential Primary); Chapter 4, §§ 6700-6849 (Peace and Freedom Party Presidential Primary); and Chapter 5, §§ 6850-6864 (Green Party Presidential Primary).

6883. (a) Notwithstanding any other law, the Secretary of State shall not print the name of a candidate for President of the United States on a primary election ballot, unless the candidate, at least 98 days before the presidential primary election, files with the Secretary of State copies of every income tax return the candidate filed with the Internal Revenue Service in the five most recent taxable years, in accordance with the procedure set forth in Section 6884.

Section 6684 provides:

6884. (a) The candidate shall submit the following to the Secretary of State: (1) (A) Two copies of each tax return required by Section 6883. One copy of each tax return shall be identical to the version submitted to the Internal Revenue Service, without redactions. The second copy of each tax return shall be redacted pursuant to this paragraph. The tax returns shall be provided to the Secretary of State in hardcopy form. (B) The candidate shall redact the following information from the redacted version of each tax return: (i) Social security numbers. (ii) Home address. (iii) Telephone number. (iv) Email address. (v) Medical information. (C) The candidate may also redact the following information from the redacted version of each tax return: (i) Names of dependent minors. (ii) Employer identification number. (iii) Business addresses. (iv) Preparer tax identification number, address, telephone number, and email address of paid tax return preparers.

(2) A written consent form, signed by the candidate, granting the Secretary of State permission to publicly release a version of the candidate's tax returns redacted pursuant to this section. The Secretary of State shall prepare a standard consent form consistent with this paragraph.

(b) The Secretary of State shall review the redacted copy of each tax return submitted by the candidate to ensure that the redactions comply with subdivision (a). If the Secretary of State determines that the candidate has redacted information other than that permitted by subdivision (a), the Secretary of State shall prepare a new version of the tax return with only the redactions permitted by that subdivision.

(c) (1) Within five days of receipt of the candidate's tax returns, the Secretary of State shall make redacted versions of the tax returns available to the public on the Secretary of State's internet website. Except as provided in paragraph (2), the Secretary of State shall make public the redacted versions of the tax returns submitted by the candidate pursuant to subdivision (a). (2) If the Secretary of State is

required to prepare a redacted version of a tax return pursuant to subdivision (b), the Secretary of State shall make public that version. (3) The public versions of the tax returns shall be continuously posted until the official canvass for the presidential primary election is completed. Upon completion of the official canvass, the Secretary of State shall remove the public versions of the tax returns. (4) The Secretary of State shall retain the paper copies of the submitted tax returns until the completion of the official canvass of the ensuing general election. Thereafter, the paper copies of the submitted tax returns shall be destroyed as soon as practicable, unless the Secretary of State has received a court order, or a lawful written request from a state or federal governmental agency, directing the Secretary of State to preserve the submitted tax returns.

15. On or after November 26, 2019, the 98th day before the March 3, 2020 direct primary election with which the Presidential primary election is consolidated, section 6883 of SB 27 directs the Secretary of State not to print the name of any Presidential candidate who has failed to comply with its federal income tax return disclosure and to waive or consent to the publication of that tax information publicly by the Secretary of State and appears to apply as well to candidates for President who qualify by petition. This statutory provision *plainly conflicts* with the constitutional provision of Article II, section 5(c) guaranteeing an open Presidential primary and with the Secretary of State's exclusive, delegated authority to determine the nationally, and California, recognized Presidential candidates on the Presidential primary ballot. As a statutory enactment, SB 27 may not amend the constitutional authority delegated to the Secretary of State to place nationally, or California, known Presidential candidates "found" by him.

TIMELINESS OF PETITION AND REQUESTED RELIEF

15. This Petition is filed within a few days of the signing of SB 27 by Governor Gavin Newsom on July 30, 2019. However, the urgency of resolving this issue expeditiously is demonstrated by the fact that if a candidate for President fails or refuses to comply with the SB 27

requirements by the 98th day before the March 3, 2020 direct primary election, or November 26, 2019, the law prohibits the Secretary of State from placing the candidate's name on the ballot.

16. Moreover, the deadline for candidates to know their rights is even earlier. On November 4, 2019, the nomination paper circulation period opens for Presidential candidates who wish to pursue obtaining voters' signatures on qualification petitions to qualify them to appear on the March 3, 2020 Presidential primary ballot. Any candidate seeking to qualify by that signature gathering method would need a final decision well in advance of November 4, 2019 in order to organize a signature collection effort to collect approximately 47,000 valid signatures, in the case of Republican Presidential candidates (1% of the total of approximately 4,700,000 registered Republican voters) and nearly 70,000 valid signatures for Democratic Presidential candidates based on the same formula.⁴

17. This Court may grant the interim relief requested pending review of the writ, whether it requests oral argument or not. This case is best suited for resolution by this Court rather than a superior court or the Court of Appeal because this matter presents issues of broad public importance that require speedy and final resolution. If Petitioners were first to file a writ in the superior court or the Court of Appeal, the party who did not prevail in that proceeding could then seek review in this Court, with additional opportunities for delay at each stage. Such a prolonged process would make it impossible to clarify the legal requirements for candidates for President in presidential primaries for 2020 in the largest state in the nation before the courts are able to reach a final resolution on the merits. Furthermore, the issue

⁴ See Secretary of State, Key Dates and Deadlines, Presidential Primary Election – March 3, 2020, available at <<https://www.sos.ca.gov/elections/upcoming-elections/presidential-primary-election-march-3-2020/key-dates-deadlines-march-3-2020/>> [as of August 1, 2019].

presented is of indisputable national and statewide significance and broad public importance.

IRREPARABLE INJURY/NECESSITY FOR RELIEF

18. Petitioners have no plain, speedy and adequate remedy at law, other than the relief sought in this request.

19. Petitioners' irreparable injury is founded on the fundamental impact of Section 6883's removal of Presidential candidates from the March 3, 2020 Presidential primary ballot on Republican voters, in addition to its impact on all California voters registered as having a preference for a political party as well as all other voters who have a right to affiliate with such political parties or, in certain cases, to cast a ballot of a political party with which they are not registered. Petitioners assert that such voters' opportunity, desire and inclination to vote in the primary are and will be suppressed by SB 27's prohibition of ballot access, and the likely absence of nationally-known candidates from the ballot. For example, the sitting President of the United States who has announced that he is a Presidential candidate for the 2020 election has in the past declined to release his federal tax returns, as this fact and his name are specifically noted in the Legislative bill analyses of SB 27. It is likely that he will maintain this position in the future. With knowledge of these facts and the political reality that the absence of a "top of the ticket" candidate suppresses partisan voter turn-out, the Legislature's and Governor's decision to pass this legislation suggest a far more cynical partisan political effort, the real purpose and intent may have been to suppress Republican votes at the March 3, 2020 election. The most significant collateral target of such vote suppression is on the candidacies of Republican and third-party candidates in the over 120 "down ticket" races. It is likely that voter suppression may cause some Republican candidates to fail to qualify in the so-called "Top Two" primaries in which the top two

candidates regardless of party affiliation who receive the most votes at the primary advance to the November 2020 general election. These offices include federal offices (House of Representatives) and state legislative offices.

20. Moreover, Elections Code sections 6883 and 6884 enacted by SB 27 have completely and illegally thwarted Petitioners' constitutionally-guaranteed right to an open Presidential primary by enacting legislation that directs the Secretary of State to ignore his constitutionally-delegated duty under Article II, section 5(c) to determine and place on the Republican Presidential primary ballot nationally - and California-known Presidential candidates as well as candidates who qualify for the ballot by petition.

21. Elections Code section 13314 provides that any elector may seek a writ of mandate by "alleging that ... any neglect of duty has occurred or is about to occur" in connection with an election. Moreover, a court may issue a writ of mandate "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office...." (Code Civ. Proc., § 1085.) Mandate applies when: (1) the respondent has a clear, present duty to act; and (2) the petitioner has a beneficial right to performance of that duty. (*People ex. rel. Younger v. County of El Dorado* (1971) 5 Cal. 3d 480, 491.) Both parts of that test are met in this case. Code of Civil Procedure section 1086 provides that when a verified petition is submitted by a party "beneficially interested," a writ "must issue where there is not a plain, adequate speedy remedy in the ordinary course of law."

22. Unless ordered otherwise, Respondent will enforce Section 6883 by excluding from the March 3, 2020 Presidential primary ballot any Presidential candidate who refuses to disclose his or her last 5 federal tax returns and consent to public posting of those returns. The negative effect on Petitioners and all voters if that occurs is obvious.

PRAYER

WHEREFORE, Petitioners pray that this Court:

- (a) Issue an order to show cause why Petitioners' Petition for Writ of Mandate, which prohibits the Respondent Secretary of State from enforcing Elections Code sections 6883 and 6884 of SB 27 as fundamentally inconsistent and in conflict with Article II, section 5(c) of the California Constitution, should not be granted, issue the interim stay relief requested herein prohibiting the Respondent Secretary of State from enforcing these statutes pending the Court's determination on the merits, and hold a hearing and decide the matter not later than November 4, 2019; or,
- (b) Grant the Petitioners' Petition for Peremptory Writ of Mandate without a hearing, prohibiting the Respondent Secretary of State from enforcing Elections Code sections 6883 and 6884 of SB 27 as fundamentally inconsistent and in conflict with Article II, section 5(c) of the California Constitution.

Respectfully Submitted,

Dated: August 6, 2019

BELL, McANDREWS & HILTACHK, LLP

By: 

CHARLES H. BELL, JR.
THOMAS W. HILTACHK
TERRY J. MARTIN

Attorneys for Petitioners, JESSICA MILLAN
PATTERSON and CALIFORNIA
REPUBLICAN PARTY

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF EMERGENCY PETITION FOR WRIT OF MANDATE OR
OTHER EXTRAORDINARY OR IMMEDIATE RELIEF**

Petitioner hereby respectfully brings this Emergency Petition for Writ of Mandate or Other Extraordinary or Immediate Relief under Elections Code section 13314, Code of Civil Procedure Sections 1085 and 1086, and Article VI, Section 10 of the California Constitution, and *Vandermost v. Bowen*, (2012) 53 Cal.4th 421, 452.

I. INTRODUCTION

The immediate petition is brought pursuant to Elections Code section 13314, Code of Civil Procedure sections 1085, 1086, and Article VI, section 10 of the California Constitution, contending that Elections Code sections 6883 and 6884 of SB 27, which became effective immediately as an urgency bill, unconstitutionally abridge the People’s right to an “open Presidential primary” and the Secretary of State’s delegated authority under Article II, section 5(c) of the California Constitution “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....” or are placed on the ballot by petition. These statutes blatantly negate the Secretary of State’s exercise of this constitutionally-delegated authority.

Moreover, this act of legislative exclusion *as applied to Presidential candidates* has no legal basis under the California Constitution, and the effect of implementation of Elections Code sections 6883 and 6884 is likely to result in the suppression of the vote of millions of California voters, will deny *all* voters the “voter choice” of an open Presidential primary at which all nationally - and California - recognized Presidential candidates will appear on the ballot, and will potentially affect the outcomes of Republican

candidates for nominations for numerous voter-nominated offices on that primary ballot, in addition to affecting the nomination of delegates to the Republican National Convention in 2020.

This petition seeks immediate relief prohibiting Respondent Secretary of State ALEX PADILLA from enforcing those portions of SB 27 applicable to Presidential primary candidates (i.e., sections 6883 and 6884). Such an order will simply allow Secretary PADILLA to exercise his constitutionally-delegated authority. This is an urgent election matter, and is thereby entitled to, and Petitioner requests, priority over all other civil matters under Code of Civil Procedure section 35.

II. ARGUMENT

A. **The Text Of Article II, Section 5(C) Is Clear And Unambiguous And Delegates To The Secretary Of State The Sole Authority To Identify Presidential Candidates And To Place Their Names On The Presidential Primary Ballot.**

The instant matter involves a very simple question of Constitutional interpretation – whether the text of art. II, section 5(c) of the State Constitution means what it says, in particular, the relevant provision sets forth:

*The Legislature shall provide for partisan elections for presidential candidates, and political party and party central committees, 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 of noncandidacy. (Emphasis added.)*

Clearly, this requirement that the Secretary of State determine that a candidate is “recognized...throughout the nation or throughout California” in order to be placed on the presidential primary election ballot does not include a requirement that the candidate have released his or her tax returns

publicly. Notwithstanding this clear directive, on July 30, 2019, the California Legislature passed, and the Governor signed, Senate Bill 27. (“SB 27,” 2019-2020 Reg. Sess.) SB 27 added Chapter 7 to Part 1 of Division 6 of the Elections Code, requiring that, as a condition to appear on the ballot in California, a candidate for President of the United States must release his or her tax returns to the public. The operative provisions are as follows:

Notwithstanding any other law, the Secretary of State shall not print the name of a candidate for President of the United States on a primary election ballot, unless the candidate, at least 98 days before the presidential primary election, files with the Secretary of State copies of every income tax return the candidate filed with the Internal Revenue Service in the five most recent taxable years, in accordance with the procedure set forth in Section 6884.

If the candidate has not filed the candidate’s income tax return with the Internal Revenue Service for the tax year immediately preceding the primary election, the candidate shall submit a copy of the income tax return to the Secretary of State within five days of filing the return with the Internal Revenue Service.

The requirement in subdivision (a) does not apply to any year in which the candidate was not required to file the candidate’s income tax return with the Internal Revenue Service.

(Elections Code section 6883(a)-(c).)

1. The Plain Text of SB 27 Conflicts with Cal. Const., Article II, section 5(c).

It is a fundamental cornerstone of law that a statute may not violate the Constitution. (*Miller v. Municipal Court of City of Los Angeles* (1943) 22 Cal.2d 818, 824.) SB 27 fails this basic test. SB 27 violates the Constitution which specifically requires that the candidates placed on the ballot by the Secretary of State be “recognized candidates throughout the nation or throughout California for the office of President of the United States,” or be “placed on the ballot by petition.” The only exception is for

those candidates “who [have] withdrawn by filing an affidavit of noncandidacy.” Therefore, if a candidate is “recognized...throughout the nation or throughout California” or “placed on the ballot by petition,” the Secretary of State’s ministerial duty is to place the candidate on the ballot unless that candidate has filed an affidavit of noncandidacy.

Moreover, nowhere in this constitutional provision is found authority whatsoever for the Legislature to limit the Secretary’s constitutionally-delegated authority or to add additional requirements to the constitutional “found and recognized requirements” by statute, such as the requirement that the candidate have disclosed tax returns. If the Legislature and the Governor believed that additional requirements for being placed as a candidate on the presidential primary ballot were needed, of course, they would have to do so by constitutional amendment. Whether such an amendment would comport with the qualifications clause of Article 2 of the U.S. Constitution is beyond the scope of the instant writ petition. (See *U.S. Term Limits, Inc. v. Thornton* (1995) 514 U.S. 779, 802 [“the power to add qualifications is not part of the original powers of sovereignty that the Tenth Amendment reserved to the States”]; *Anderson v. Celebrezze* (1983) 460 U.S. 780, 788.) This petition deals narrowly with the clear conflict of the provisions of SB 27 with the State Constitution.

2. The Ballot Materials Presented to the Public When It Passed Article II, section 5(c), and Later Amendments, Reveals that SB 27 Conflicts With It.

Article II, section 5 was originally passed via Proposition 4 in 1972 (wherein it was initially Article II, section 8). The ballot materials bear out Petitioners’ interpretation that the Legislature may not alter the qualifications for candidates recognized as “generally known” by the Secretary of State and therefore required to be placed on the ballot. (*Silicon Valley Taxpayers’*

Assn., Inc. v. Santa Clara County Open Space Authority (2008) 44 Cal.4th 431, 445 [ballot materials are evidence of legislative intent].)

Proposition 4 was a response to a “favorite son” device whereby “Governors from both parties [would] prevent a contested primary, depriving the voters of a chance to vote for the candidate of his choice.” (Exhibit D, Argument in Favor of Proposition 4.) Importantly, the Argument noted that “[i]t is time the voters have a say in nominating their party’s candidate for the highest office in the land.” (*Id.*) Under the provisions enacted via SB 27, “the voters” would not have a say in nominating their party’s candidate because of the arbitrary and unconstitutional Elections Code provisions requiring the divulsion of tax returns as a prerequisite for voters to have such a choice.

Even the Argument Against Proposition 4 additionally makes clear that Petitioner’s interpretation of Article II, section 5(c) is correct and the Legislature may not alter the requirements for placement on the presidential election ballot. This is because this ballot material notes that “[t]his proposal gives just one man, the California Secretary of State, the right to determine which names will be placed on the ballot for the highest office in this country.” (Exhibit D. Emphasis in original.) It additionally noted that the decision-making power over the same would be “give[n]...instead to one individual.” Clearly, the voters understood that this was a decision of the Secretary of State, not the Legislature, to “find” which candidates are “generally recognized” and to place their names on the ballot.

And, as to what those qualifications would be, the Rebuttal to Argument Against Proposition 4 notes that “[b]y placing the names of all recognized candidates on the ballot the Secretary of State can help ensure that Californians have a chance to choose which candidate they wish to represent their party” and that Californians will be “free” to “choose their own candidates for President.” (*Id.*) A candidate is clearly “recognized”

whether he or she has divulged his or her tax returns and thus must be placed on the ballot by the Secretary of State. The Argument Against Proposition 4 apparently agrees with the relevant portion, as the authors write that “[Proposition 4] also means that [a recognized presidential candidate] is forced to risk his entire candidacy” (emphasis in original) by being “generally recognized,” thus being placed on the ballot, and “the *only* way he can have his name removed from the ballot is by filing a formal affidavit that he is not a candidate.” (Emphasis added.)

The ballot materials for Proposition 14 at the 2010 election also bear out this interpretation. The most recently-passed amendment to Article II, section 5(c) is Proposition 14, passed via the voters at that election. Proposition 14 altered Article II, section 5 to set up a “voter-nominated primary election,” commonly referred to as a “top-two primary.” In particular, the Legislative Analyst assured voters that Proposition 14 “Does Not Affect Presidential Elections and Political Party Leadership Positions.” (Ballot Pamphlet for June 8, 2010 Primary Election, p. 17.)

Additionally, both the Argument in Favor of and Argument Against Proposition 14 specify that only primary elections are affected to the extent they are for state or Congressional races. Nowhere were voters informed that the Legislature could, by bill passed in the normal course of the legislative session, affect Presidential races by denying the certification of candidates for the ballot those candidates that do not adhere to the Legislature’s whims (such as the belief that candidates should disclose their tax returns). Those decisions, and whether they matter, are, under both the state and federal constitutions, left to voters in the course of the political process.

3. The Secretary of State Exercises Independent Constitutional Authority in The Placement of Candidates on the Ballot.

Article II, section 5(c) of the State Constitution clearly entrusts to the Secretary of State the exclusive, delegated authority to determine (“find”) which candidates are known “throughout the nation and throughout California” and thus qualify for ballot placement. That Article does not leave the Legislature free to alter the Secretary’s determination by statute. Indeed, the Assembly Committee on Constitutional Amendments’ Analysis of SCA 3 of November 3, 1971 makes clear that “Secretary of State would be **required** to place all recognized candidates for president on the primary ballot.” (Emphasis added.) (See Exhibit “C.”)

The reference in section 5(c) to the Legislature [“[t]he Legislature shall provide for partisan elections for presidential candidates, and political party and party central committees, including an open presidential primary.”] only authorizes the Legislature to adopt time, place and manner rules incident to the constitutional mandate to provide for partisan elections for such offices. That mandate was clearly understood when the voters passed Proposition 4 in 1972, and no legislation or judicial interpretation has expanded or modified that understanding or meaning. Indeed, the Legislature has adopted a scheme of such regulations as set forth in detail in the Petition, at paragraph 14, footnote 3. Clearly, the *substantive* question of which candidates are to appear on the ballot is delegated solely to the Secretary of State’s placement on the ballot of “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.” To determine otherwise would be to write the Secretary of State out of the Constitutional provision entirely.

Indeed, this is not the only constitutional provision that disallows legislative meddling with administrative decisions. For example, the Public Utilities Commission and the University of California have been similarly held to exercise constitutional authority independent of the Legislature. (*San Francisco Labor Council v. Regents of University of California* (1980) 26 Cal.3d 785, 790 [Education Code provision requiring University of California to pay prevailing wage rates in community violated constitutional provision establishing independence of University].) Since the Constitutional provision in question does not afford the Legislature any statutory authority to alter the delegated authority of the Secretary of State, the provisions of SB 27 as applied to Presidential candidates, are unconstitutional.

B. Writ Relief is Appropriate Now

This Petition is filed within a few days after the signing of SB 27 by Governor Gavin Newsom on July 30, 2019. However, the urgency of resolving this issue expeditiously is demonstrated by the fact that if a candidate for President fails or refuses to comply with the SB 27 requirements by the 98th day before the March 3, 2020 direct primary election, or November 26, 2019, the law prohibits the Secretary of State from placing the candidate's name on the ballot.

However, the deadline for candidates to know their rights is even earlier. On November 4, 2019, the nomination paper circulation period opens for Presidential candidates who wish to pursue obtaining voters' signatures on qualification petitions to qualify them to appear on the March 3, 2020 Presidential primary ballot. Any candidate seeking to qualify by that signature gathering method would need a final decision well in advance of November 4, 2019 in order to organize a signature collection effort to collect approximately 47,000 valid signatures, in the case of Republican Presidential candidates (1% of the total of approximately 4,700,000 registered

Republican voters) and nearly 70,000 valid signatures for Democratic Presidential candidates based on the same formula.

C. Irreparable Injury Will Harm Petitioners, and More Broadly, Voters of the State of California, if Relief Is Not Granted Promptly

Writ relief must be granted well in advance of the Presidential primary election, which is set to take place in mere months on March 3, 2020. Indeed, the Secretary of State must follow specific statutory guidelines in order for candidates filing nomination petitions to qualify for the ballot. For example, the nomination period for candidates not selected as “generally recognized” by the Secretary of State is a narrow window from November 4, 2019 to December 13, 2019. (See Secretary of State, Key Dates and Deadlines, Presidential Primary Election – March 3, 2020, <<https://www.sos.ca.gov/elections/upcoming-elections/presidential-primary-election-march-3-2020/key-dates-deadlines-march-3-2020/>> [as of August 1, 2019].) Moreover, candidates who are not included in the Secretary of State’s list of candidates to qualify without petition are entitled to a determination whether the tax return provision will remain in force or not, early enough to avail themselves of the limited time window from November 4 to December 13, 2019 to take out, circulate and return a sufficient number of valid signatures of voters on their nomination petitions to assure qualification by December 13.

D. Petitioners Have Standing to Sue and the Secretary of State is the Proper Respondent

Petitioner JESSICA MILLAN PATTERSON is a proper party to bring this action because she is an “elector” within the meaning of Elections Code section 13314(a)(1). She is “a person who is a United States citizen 18 years of age or older and... a resident of an election precinct in this state on or before the day of an election.” (Elections Code section 321(a).) Petitioner CALIFORNIA REPUBLICAN PARTY is a proper party to bring this action

as the ballot qualified political party representing 4.7 million voters, with associational and speech rights implicated by the Presidential primary, not only as to Presidential candidates who are the “top of the ticket” but also to “down ticket” candidates who will appear on the same ballot for up to 120 federal and state “voter-nominated” offices under the “Top Two” primary.

Respondent Secretary of State ALEX PADILLA is the proper respondent. He is the public official delegated the constitutional responsibility to find and place Presidential candidates on the Presidential primary ballot under Article II, section 5(c) of the Constitution, as well as candidates described in Elections Code section 15375, which include candidates for president. (Elections Code sections 13314(a)(3) and 15375(c).) He is additionally the ministerial official within the meaning of Code of Civil Procedure sections 1085 and 1086 charged with a clear, present ministerial duty to ensure that the constitutional provision at issue is enforced and candidates qualifying are placed on the ballot.

E. Irreparable Injury Will Result if Petitioners’ Writ Is Not Granted

Presidential candidates are already campaigning for the primary election in California, and the Legislature has, as of a few days ago, notified them that if they do not release their tax returns to the public, they will not be allowed on the ballot. This affects the number of candidates who calculate spending time and resources in California campaigning for delegates to their Presidential nominating conventions and ultimately nomination by their parties to appear on the November 2020 general election ballot for election to the office of President of the United States

The right of California’s voters to avail themselves of the opportunity created by the “open Presidential primary” system to have all nationally- and California-known Presidential candidates on the ballot, as well as the rights of 4.7 million Republican voters to have all such Republican Presidential

candidates on their ballots, will be injured irreparably by the exclusion of any Presidential candidates from the primary ballot on account of SB 27. Moreover, the Republican Party's right on behalf of its adherents to determine its own nominee for President by partisan primary (*Tashjian v. Republican Party* (1986) 479 U.S. 208, 220) will be irreparably injured if the provisions of Elections Code sections 6883 and 6884 are enforced. As set forth in the Petition, at paragraph 2, data proves and studies have shown that voter turn-out in a presidential primary is much larger than in a non-presidential primary and that the "top of the ticket" is an important factor in voter turn-out. Voter turn-out is important to *every* race on the ballot, not just the "top of the ticket" race. The Petitioners' fears of these existential impacts on the Petitioners' candidates and the viability of the Republican Party itself are reasonable, in light of the Legislature's laser focus in this legislation upon the incumbent Republican President, the likelihood there may be a dozen or more Democratic Presidential candidates but far fewer Republican candidates, and the likely absence of the incumbent President from the ballot.

The Secretary of State's own voter turn-out data comparing turn-out in Presidential and non-Presidential election years, show that Presidential primary election turn-out regularly has substantially exceeded non-Presidential primary election turn-out since the 1950s, and that the "top of the ticket" effect is particularly strong in Presidential election year primaries. (See Exhibit "B," a true and correct copy of a chart maintained by the Secretary of State, entitled "Historical Voter Registration and Participation in Statewide Primary Elections 1914-2018," which is also accessible at <<https://elections.cdn.sos.ca.gov/sov/2018-primary/sov/04-historical-voter-reg-primary.pdf>> last accessed July 31, 2019). The "coattail effect" on down ticket candidates also is well recognized political phenomenon and demonstrates the potential harm to the Party's candidates if Presidential

candidates are not permitted to appear on the ballot. (See Steven G. Calabresi, James Lindgren, *The President: Lightning Rod or King?* (2006) 115 Yale L.J. 2611, 2612 [describing the “coattail effect” of the presidential candidate on down-ballot candidates of the president’s party]; FairVote, Voter Turnout, available at https://www.fairvote.org/voter_turnout/#voter_turnout_101 [as of August 1, 2019].) In California, our state legislative and congressional elections are “top two” elections, whereby the top two vote getters, regardless of party, are advanced to the general election. If Republican turn-out is reduced because the incumbent President’s name is not placed on the ballot, the trickle-down effect of that will reduce the Party’s chance to qualify candidates in the top two primary in many state legislative and congressional districts.

Finally, SB 27 affects the right of association of political parties to pick their own leadership (*Eu v. San Francisco County Democratic Central Committee* (1989) 489 U.S. 214). It is no trifling matter that one such candidate may be a sitting President of the United States. So, the candidate most likely to drive voter turn-out for a major political party is threatened with being barred from the ballot by Legislative fiat in clear conflict with the Constitution.

However, it is no less significant from an irreparable injury standpoint that all voters, regardless of political party permanent or temporary affiliation, including Democratic Party voters, will suffer irreparable injury if the game play situations described in the introduction to this Petition occurred. For example, not only does SB 27 deny access to the ballot for any legitimate candidate who does not want to provide his unredacted tax return to a state government agency, it would allow manipulation of the ballot by candidates agreeing not to provide tax returns in order to keep their name off the ballot in favor of a “favorite son” nominee, the very thing Proposition 4 eliminated. In addition, actual candidates might choose to forego having

their name on the California ballot to save campaign resources for other states and avoid the potential embarrassment of “losing” in California if their name was on the ballot.

III. CONCLUSION

For the reasons stated above, the relief sought herein should be granted, together with such other and further relief this Court deems just and proper.

Dated: August 6, 2019

BELL, McANDREWS & HILTACHK, LLP

By: _____

CHARLES H. BELL, JR.

THOMAS W. HILTACHK

TERRY J. MARTIN

Attorneys for Petitioners, JESSICA MILLAN

PATTERSON and CALIFORNIA

REPUBLICAN PARTY

DECLARATION OF CHARLES H. BELL, JR.

I, Charles H. Bell, Jr., declare:

1. I am an attorney at law licensed to practice law in the State of California, and a partner with the firm of Bell, McAndrews & Hiltachk, and one of the counsel of record for Petitioners in this matter.

2. I have personal knowledge of the facts stated herein and, if I was called to testify, would and could competently and accurately testify as to the same. I make this declaration in support of *Petitioner's Emergency Petition for Writ of Mandate or Other Extraordinary or Immediate Relief*.

3. Filed herewith and marked as **Exhibit A**, is a true and correct copy of SB 27, the "Presidential Tax Transparency and Accountability Act," enacted by the Legislature and signed by Governor Gavin Newsom on July 30, 2019.

4. Filed herewith and marked as **Exhibit B**, is a true and correct copy of a chart compiled and maintained by the Secretary of State, entitled "Historical Voter Registration and Participation in Statewide Primary Elections 1914-2018."

5. Filed herewith and marked as **Exhibit C**, is a true and correct copy of the Assembly Committee on Constitutional Amendments' Bill Analysis, SCA 3, November 3, 1971.

6. Filed herewith and marked as **Exhibit D**, is a true and correct copy of portions of the Voter Information Guide for the June 6, 1972 Primary related to Proposition 4, maintained in the University of California, Hastings College of Law, UC Hastings Scholarship Repository.

7. Filed herewith and marked as **Exhibit E** thereto, is a true and correct copy of portions of the Voter Information Guide for the June 8, 2010 election related to Proposition 14.

8. Filed herewith and marked as **Exhibit F** thereto, is a true and correct copy of the Ballot Title and Summary and Legislative Analysis of Proposition 14, June 8, 2010 Primary Election.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of August, 2019, at Arroyo Grande, California.

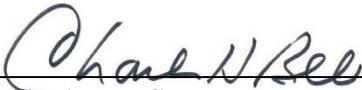
A handwritten signature in cursive script that reads "Charles H. Bell". The signature is written in black ink and is positioned above a horizontal line.

CHARLES H. BELL, JR.

CERTIFICATE OF COMPLIANCE

Counsel of Record hereby certifies that pursuant to Rule 8.204(c)(1) and 8.360(b)(1) of the California Rules of the Court, the enclosed brief of JESSICA MILLAN PATTERSON and CALIFORNIA REPUBLICAN PARTY is produced using 13-point Times New Roman type including footnotes and contain approximately 8,538 words, which is less than the total words permitted by the rules of the court. Counsel relies on the word count of the computer program, Microsoft Word 2010, used to prepare this brief.

Dated: August 6, 2019. **BELL, McANDREWS & HILTACHK, LLP**

By:  _____
CHARLES H. BELL, JR.
THOMAS W. HILTACHK
TERRY J. MARTIN

*Attorneys for Petitioners, JESSICA MILLAN
PATTERSON and CALIFORNIA
REPUBLICAN PARTY*

VERIFICATION

I, CHARLES H. BELL, JR., declare that I am the attorney for Petitioners, JESSICA MILLAN PATTERSON, its Chairperson, and CALIFORNIA REPUBLICAN PARTY; that she is currently out of the county in which my office is located and in which this action is filed or is currently unavailable to sign this verification; that I make this declaration on her behalf.

I have read the foregoing **EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF**.

The foregoing is true and correct and of my personal knowledge. If called as a witness, I could and would testify competently thereto.

Executed under penalty of perjury under the laws of the State of California this Verification was executed on this 6th day of August 2019, at Arroyo Grande, California.



CHARLES H. BELL, JR.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause of action. My business address is 455 Capitol Mall, Suite 600, Sacramento, CA 95814.

On August 6, 2019, I served the following:

**EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER
EXTRAORDINARY OR IMMEDIATE RELIEF; MEMORANDUM
OF POINTS AND AUTHORITIES; DECLARATION OF CHARLES
H BELL, JR.**

on the following party(ies) in said action:

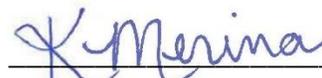
Steve Reyes
General Counsel for Alex Padilla
300 S Spring St Fl 16, Los Angeles, CA 90013
County: Los Angeles County

X **BY ELECTRONIC MAIL:** By causing true copy(ies) of PDF versions of said document(s) to be sent to the e-mail address of each party listed.

X **BY FEDERAL EXPRESS MAIL:** By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the FEDERAL EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

 BY EXPRESS MAIL: By placing said documents(s) in a sealed envelope and depositing said envelope, with postage thereon fully prepaid, in the U.S.P.S. EXPRESS MAIL SERVICE BOX, in Sacramento, California, addressed to said party(ies).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 6, 2019, at Sacramento, California.



KIERSTEN MERINA

Exhibit A

Exhibit A



SB-27 Primary elections: ballot access: tax returns. (2019-2020)

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Date Published: 07/15/2019 09:00 PM

ENROLLED JULY 15, 2019

PASSED IN SENATE JULY 11, 2019

PASSED IN ASSEMBLY JULY 08, 2019

AMENDED IN ASSEMBLY JUNE 27, 2019

AMENDED IN ASSEMBLY MAY 29, 2019

AMENDED IN SENATE APRIL 10, 2019

AMENDED IN SENATE MARCH 11, 2019

CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

SENATE BILL

NO. 27

**Introduced by Senators McGuire and Wiener
(Principal coauthor: Senator Stern)
(Principal coauthor: Assembly Member Santiago)
(Coauthors: Senators Leyva and Wiecewski)
(Coauthors: Assembly Members Low and Mullin)**

December 03, 2018

An act to add Chapter 7 (commencing with Section 6880) to Part 1 of Division 6 of, and to add Part 5 (commencing with Section 8900) to Division 8 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 27, McGuire. Primary elections: ballot access: tax returns.

Existing law establishes processes for printing on presidential primary ballots the names of candidates for President of the United States who are considered to be generally recognized candidates or who are selected by a sufficient number of registered voters. Existing law, applicable to non-presidential direct primary elections, requires the Secretary of State to transmit to each county elections official a certified list of candidates who are eligible to be voted for in the official's county at a direct primary election.

This bill would enact the Presidential Tax Transparency and Accountability Act, which would require a candidate for President, in order to have the candidate's name placed upon a primary election ballot, to file the candidate's income tax returns for the 5 most recent taxable years with the Secretary of State, as specified. The act would require the Secretary of State, within 5 days of receiving the returns, to make redacted versions of the returns

available to the public on the Secretary of State's internet website. This bill would impose the same requirements on candidates for Governor.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 7 (commencing with Section 6880) is added to Part 1 of Division 6 of the Elections Code, to read:

CHAPTER 7. Income Tax Return Disclosure Requirements

6880. This chapter shall be known and may be cited as the Presidential Tax Transparency and Accountability Act.

6881. The Legislature finds and declares 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. The Legislature also finds and declares 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. The Legislature further finds and declares 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. Finally, the State of California has an interest in ensuring that any violations of the Foreign Emoluments Clause of the United States 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. The Legislature finds and declares that compliance costs with this requirement will be trivial.

6882. For purposes of this chapter, "income tax return" means 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.

6883. (a) Notwithstanding any other law, the Secretary of State shall not print the name of a candidate for President of the United States on a primary election ballot, unless the candidate, at least 98 days before the presidential primary election, files with the Secretary of State copies of every income tax return the candidate filed with the Internal Revenue Service in the five most recent taxable years, in accordance with the procedure set forth in Section 6884.

(b) If the candidate has not filed the candidate's income tax return with the Internal Revenue Service for the tax year immediately preceding the primary election, the candidate shall submit a copy of the income tax return to the Secretary of State within five days of filing the return with the Internal Revenue Service.

(c) The requirement in subdivision (a) does not apply to any year in which the candidate was not required to file the candidate's income tax return with the Internal Revenue Service.

6884. (a) The candidate shall submit the following to the Secretary of State:

(1) (A) Two copies of each tax return required by Section 6883. One copy of each tax return shall be identical to the version submitted to the Internal Revenue Service, without redactions. The second copy of each tax return shall be redacted pursuant to this paragraph. The tax returns shall be provided to the Secretary of State in hard-copy form.

(B) The candidate shall redact the following information from the redacted version of each tax return:

(i) Social security numbers.

(ii) Home address.

(iii) Telephone number.

(iv) Email address.

(v) Medical information.

(C) The candidate may also redact the following information from the redacted version of each tax return:

(i) Names of dependent minors.

(ii) Employer identification number.

(iii) Business addresses.

(iv) Preparer tax identification number, address, telephone number, and email address of paid tax return preparers.

(2) A written consent form, signed by the candidate, granting the Secretary of State permission to publicly release a version of the candidate's tax returns redacted pursuant to this section. The Secretary of State shall prepare a standard consent form consistent with this paragraph.

(b) The Secretary of State shall review the redacted copy of each tax return submitted by the candidate to ensure that the redactions comply with subdivision (a). If the Secretary of State determines that the candidate has redacted information other than that permitted by subdivision (a), the Secretary of State shall prepare a new version of the tax return with only the redactions permitted by that subdivision.

(c) (1) Within five days of receipt of the candidate's tax returns, the Secretary of State shall make redacted versions of the tax returns available to the public on the Secretary of State's internet website. Except as provided in paragraph (2), the Secretary of State shall make public the redacted versions of the tax returns submitted by the candidate pursuant to subdivision (a).

(2) If the Secretary of State is required to prepare a redacted version of a tax return pursuant to subdivision (b), the Secretary of State shall make public that version.

(3) The public versions of the tax returns shall be continuously posted until the official canvass for the presidential primary election is completed. Upon completion of the official canvass, the Secretary of State shall remove the public versions of the tax returns.

(4) The Secretary of State shall retain the paper copies of the submitted tax returns until the completion of the official canvass of the ensuing general election. Thereafter, the paper copies of the submitted tax returns shall be destroyed as soon as practicable, unless the Secretary of State has received a court order, or a lawful written request from a state or federal governmental agency, directing the Secretary of State to preserve the submitted tax returns.

SEC. 2. Part 5 (commencing with Section 8900) is added to Division 8 of the Elections Code, to read:

PART 5. INCOME TAX RETURN DISCLOSURE REQUIREMENTS

8900. The Legislature finds and declares 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. The Legislature also finds and declares that the income tax returns of candidates for Governor 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. The Legislature further finds and declares that as one of the largest centers of economic activity in the world, the State of California has a special interest in state elected officials refraining from corrupt or self-enriching behaviors while in office. The people of California can better estimate the risks of any given candidate for Governor engaging in corruption or the appearance of corruption if they have access to candidates' tax returns. Finally, the State of California has an interest in ensuring that any violations of statutory prohibitions on behavior such as insider trading are detected and punished. Mandated disclosure of the tax returns of candidates for Governor will enable enforcement of the laws against whichever candidates are elected to those offices. The Legislature finds and declares that compliance costs with this requirement will be trivial.

8901. For the purposes of this part, "income tax return" has the same meaning as in Section 6882.

8902. (a) Notwithstanding any other law, the name of a candidate for Governor shall not be printed on a direct primary election ballot, unless the candidate, at least 98 days before the direct primary election, files with the Secretary of State copies of every income tax return the candidate filed with the Internal Revenue Service in the five most recent taxable years, in accordance with the procedure set forth in Section 8903.

(b) If the candidate has not filed the candidate's income tax return with the Internal Revenue Service for the tax year immediately preceding the primary election, the candidate shall submit a copy of the income tax return to the Secretary of State within five days of filing the return with the Internal Revenue Service.

(c) The requirement in subdivision (a) does not apply to any year in which the candidate was not required to file the candidate's income tax return with the Internal Revenue Service.

8903. (a) The candidate shall submit the following to the Secretary of State:

(1) (A) Two copies of each tax return required by Section 8902. One copy of each tax return shall be identical to the version submitted to the Internal Revenue Service, without redactions. The second copy of each tax return shall be redacted pursuant to this paragraph. The tax returns shall be provided to the Secretary of State in hard-copy form.

(B) The candidate shall redact the following information from the redacted version of each tax return:

(i) Social security numbers.

(ii) Home address.

(iii) Telephone number.

(iv) Email address.

(v) Medical information.

(C) The candidate may also redact the following information from the redacted version of each tax return:

(i) Names of dependent minors.

(ii) Employer identification number.

(iii) Business addresses.

(iv) Preparer tax identification number, address, telephone number, and email address of paid tax return preparers.

(2) A written consent form, signed by the candidate, granting the Secretary of State permission to publically release a version of the candidate's tax returns redacted pursuant to this section. The Secretary of State shall prepare a standard consent form consistent with this paragraph.

(b) The Secretary of State shall review the redacted copy of each tax return submitted by the candidate to ensure that the redactions comply with subdivision (a). If the Secretary of State determines that the candidate has redacted information other than that permitted by subdivision (a), the Secretary of State shall prepare a new version of the tax return with only the redactions permitted by that subdivision.

(c) (1) Within five days of receipt of the candidate's tax returns, the Secretary of State shall make redacted versions of the tax returns available to the public on the Secretary of State's internet website. Except as provided in paragraph (2), the Secretary of State shall make public the redacted versions of the tax returns submitted by the candidate pursuant to subdivision (a).

(2) If the Secretary of State is required to prepare a redacted version of a tax return pursuant to subdivision (b), the Secretary of State shall make public that version.

(3) The public versions of the tax returns shall be continuously posted until the official canvass for the direct primary election is completed. Upon completion of the official canvass, the Secretary of State shall remove the public versions of the tax returns.

(4) The Secretary of State shall retain the paper copies of the submitted tax returns until the completion of the official canvass of the ensuing general election. Thereafter, the paper copies of the submitted tax returns shall be destroyed as soon as practicable, unless the Secretary of State has received a court order, or a lawful written request from a state or federal governmental agency, directing the Secretary of State to preserve the submitted tax returns.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the protections afforded by this act are in place for the 2020 primary election, it is necessary for this act to take effect immediately.

Exhibit B

Exhibit B

HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE PRIMARY ELECTIONS 1914 - 2018

Primary Date	Registration						Votes Cast		
	Eligible	Democratic	Republican	Other	No Party Preference*	Total	Total Votes	Turnout Registered	Turnout Eligible
August 25, 1914	1,710,000	**	**	**	**	**	**	**	**
May 2, 1916 P	1,786,000	**	**	**	**	735,869	324,366	44.08%	18.16%
August 29, 1916	1,798,000	**	**	**	**	**	**	**	**
August 27, 1918	1,906,000	**	**	**	**	1,151,365	647,234	56.21%	33.96%
May 4, 1920 P	2,047,000	**	**	**	**	1,111,192	618,981	55.70%	30.24%
August 31, 1920	2,072,000	**	**	**	**	**	488,261	**	23.56%
August 29, 1922	2,386,000	305,658	927,046	46,790	172,799	1,452,293	813,166	55.99%	34.08%
May 6, 1924 P	2,670,000	339,300	1,012,701	37,277	110,317	1,499,595	742,827	49.54%	27.82%
August 26, 1924	2,719,000	367,277	1,084,997	39,671	129,508	1,621,453	674,231	41.58%	24.80%
August 31, 1926	2,964,000	399,599	1,262,480	38,808	153,584	1,854,471	1,031,900	55.64%	34.81%
May 1, 1928 P	3,177,000	465,793	1,254,514	28,950	100,722	1,849,979	853,669	46.14%	26.87%
August 28, 1928	3,214,000	508,645	1,360,152	30,251	110,551	2,009,599	740,556	36.85%	23.04%
August 26, 1930	3,440,000	449,824	1,599,413	23,297	114,940	2,187,474	1,301,847	59.51%	37.84%
May 3, 1932 P	3,546,000	847,264	1,394,850	24,839	110,190	2,377,143	1,379,113	58.02%	38.89%
August 30, 1932	3,562,000	1,027,657	1,497,432	27,743	112,998	2,665,830	1,493,827	56.04%	41.94%
August 28, 1934	3,663,000	1,494,111	1,418,826	31,841	117,539	3,062,317	1,817,027	59.34%	49.60%
May 5, 1936 P	3,802,000	1,687,288	1,163,780	16,561	96,707	2,964,336	1,535,280	51.79%	40.38%
August 25, 1936	3,826,000	1,783,028	1,198,550	19,135	96,116	3,096,829	1,472,094	47.54%	38.48%
August 30, 1938	4,015,000	2,052,519	1,246,773	51,793	102,973	3,454,058	2,069,025	59.90%	51.53%
May 7, 1940 P	4,169,000	2,172,853	1,308,211	43,773	127,437	3,652,274	1,572,173	43.05%	37.71%
August 27, 1940	4,195,000	2,259,613	1,361,657	35,233	126,199	3,782,702	1,885,537	49.85%	44.95%
August 25, 1942	4,643,000	2,252,901	1,352,907	21,917	123,571	3,751,296	1,768,929	47.16%	38.10%
May 16, 1944 P	5,244,000	1,968,376	1,285,977	15,393	101,232	3,370,978	1,884,820	55.91%	35.94%
June 4, 1946	5,722,000	2,393,997	1,530,335	11,899	177,377	4,113,608	2,087,864	50.76%	36.49%
June 1, 1948 P	6,042,000	2,665,560	1,749,223	28,003	189,343	4,632,129	2,538,585	54.80%	42.02%
June 6, 1950	6,385,000	2,862,063	1,826,350	32,608	204,348	4,925,369	3,140,472	63.76%	49.19%
June 3, 1952 P	6,913,000	2,995,768	2,192,446	23,650	171,657	5,383,521	3,651,912	67.84%	52.83%
June 8, 1954	7,454,000	3,112,004	2,348,412	29,838	174,434	5,664,688	3,184,565	56.22%	42.72%
June 5, 1956 P	8,074,000	3,059,873	2,277,530	21,304	129,115	5,487,822	3,656,586	66.63%	45.29%
June 3, 1958	8,763,000	3,542,374	2,552,678	30,172	154,952	6,280,176	4,125,124	65.68%	47.07%
June 7, 1960 P	9,446,000	3,676,495	2,519,975	30,305	148,507	6,375,282	4,004,059	62.81%	42.39%
June 5, 1962	10,155,000	3,996,964	2,833,889	7,788	212,948	7,051,589	4,479,723	63.53%	44.11%
June 2, 1964 P	10,823,000	4,022,302	2,895,448	25,414	179,560	7,122,724	5,124,175	71.94%	47.35%
June 7, 1966	11,346,000	4,485,777	3,125,884	37,611	205,830	7,855,102	5,079,911	64.67%	44.77%
June 4, 1968 P	11,737,000	4,347,406	3,197,815	202,678	177,718	7,925,617	5,723,047	72.21%	48.76%
June 2, 1970	12,105,000	4,388,052	3,274,967	112,086	278,284	8,053,389	5,011,908	62.23%	41.40%
June 6, 1972 P	13,084,000	5,134,178	3,398,716	135,691	436,702	9,105,287	6,460,220	70.95%	49.37%
June 4, 1974	13,624,000	5,333,522	3,499,773	112,737	552,469	9,498,501	5,128,375	53.99%	37.64%
June 8, 1976 P	14,093,000	4,987,795	3,165,495	66,981	490,485	8,710,756	6,323,651	72.60%	44.87%
June 6, 1978	14,659,000	5,610,357	3,450,469	110,931	763,084	9,934,841	6,843,001	68.88%	46.68%

HISTORICAL VOTER REGISTRATION AND PARTICIPATION IN STATEWIDE PRIMARY ELECTIONS 1914 – 2018 (continued)

Primary Date	Registration						Votes Cast		
	Eligible	Democratic	Republican	Other	No Party Preference*	Total	Total Votes	Turnout Registered	Turnout Eligible
June 3, 1980 P	15,258,000	5,786,806	3,703,515	245,103	959,236	10,694,660	6,774,184	63.34%	44.40%
June 8, 1982	15,859,000	5,853,273	3,867,531	267,294	1,099,064	11,087,162	5,846,026	52.73%	36.86%
June 5, 1984 P	16,457,000	6,142,820	4,047,509	250,109	1,089,331	11,529,769	5,609,063	48.65%	34.08%
June 3, 1986	17,357,000	6,181,719	4,566,785	366,591	1,091,537	12,206,632	4,937,941	40.45%	28.45%
June 7, 1988 P	18,917,000	6,380,397	4,782,248	267,047	1,107,515	12,537,207	6,037,468	48.16%	31.92%
June 5, 1990	19,133,000	6,453,186	5,072,331	249,873	1,206,039	12,981,429	5,386,545	41.49%	28.15%
June 2, 1992 P	19,180,000	6,581,888	5,242,805	435,572	1,308,983	13,569,248	6,439,629	47.46%	33.58%
June 7, 1994	18,946,000	6,924,121	5,261,009	459,884	1,526,397	14,171,411	4,966,827	35.05%	26.22%
March 26, 1996 P	19,326,000	6,849,330	5,373,746	697,203	1,603,084	14,523,363	6,081,777	41.88%	31.47%
June 2, 1998	20,653,000	6,830,530	5,225,686	685,871	1,863,590	14,605,677	6,206,618	42.49%	30.05%
March 7, 2000 P	21,220,772	6,684,668	5,140,951	773,523	2,032,663	14,631,805	7,883,385	53.88%	37.15%
March 5, 2002	21,507,390	6,873,476	5,354,358	798,155	2,254,819	15,280,808	5,286,204	34.59%	24.58%
March 2, 2004 P	21,887,894	6,518,631	5,364,832	727,658	2,480,039	15,091,160	6,684,421	44.29%	30.54%
June 6, 2006	22,542,844	6,685,288	5,387,865	704,313	2,890,973	15,668,439	5,269,142	33.63%	23.37%
February 5, 2008 P	22,948,059	6,749,406	5,229,425	690,758	3,043,164	15,712,753	9,068,415	57.71%	39.52%
June 3, 2008	23,033,970	7,053,860	5,244,394	696,849	3,128,684	16,123,787	4,550,227	28.22%	19.75%
June 8, 2010	23,453,690	7,553,109	5,228,320	771,852	3,423,750	16,977,031	5,654,993	33.31%	24.11%
June 5, 2012 P	23,713,027	7,442,921	5,186,492	869,678	3,654,608	17,153,699	5,328,296	31.06%	22.47%
June 3, 2014	24,192,752	7,692,670	5,036,610	1,243,511	3,749,215	17,722,006	4,461,346	25.17%	18.44%
June 7, 2016 P	24,783,789	8,029,130	4,888,771	819,504	4,177,648	17,915,053	8,548,301	47.72%	34.49%
June 5, 2018	25,119,238	8,438,268	4,769,299	963,033	4,852,817	19,023,417	7,141,987	37.54%	28.43%

Notes

*Known as "Decline to State" before 2011 when the Top Two Candidates Open Primary Act took effect.

**Indicates information not available.

In 1911, women were given the right to vote in California.

P indicates a presidential primary election.

The first statewide record of party affiliations was reported in 1922.

In 1972, the voting age was lowered from 21 to 18.

Source: CA Secretary of State

Exhibit C

Exhibit C

file

STAFF ANALYSIS: SCA 3 (Alquist)

(Note: there is no companion bill before the committee at this time.)

SUBJECT: Presidential Primary Election

SUMMARY: 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.

SECRETARY OF STATE, ALEX PADILLA

The Original of This Document is in
CALIFORNIA STATE ARCHIVES
1020 "O" STREET
SACRAMENTO, CA 95814

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 propose 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 D

Exhibit D

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Propositions

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1972

Voter Information Guide for 1972, Primary

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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)

PRIMARY ELECTION

Tuesday, June 6, 1972

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

Rebuttal to Argument in Favor of Proposition 3

I urge your no vote on Proposition 3 which would deny any person the right to defend himself in all criminal cases if he chooses, for the following reasons:

Under the statutes of this provision, no person, no attorney, including a U.S. Supreme Court Justice could defend himself even though he had passed the California State Bar examination and even though he may be a specialist schooled in the subject.

While I do not disagree with the contention that the trial of a serious criminal case is no place for a person not schooled in courtroom procedure, methods of pleading, rules of evidence, etc., I feel this is but sad commentary on the court and its officers in that the legal profession seems all too swept-up with procedure than with its basic purpose, to provide justice. Witness the number of delays, appeals and reversals directly attributable to those so schooled in legal procedure. If delays due to technicalities, or appeals and reversals due to abridgement of defendants' rights are a cause for blame, then I feel that the judicial system has only itself to blame particularly when it decides a case granting "new" rights defendant or a person already tried and icted.

In regard to the concept that a person has "a fool for a client", if he defends himself, it does not deny the fact that a defendant can have a fool for an attorney even if he does not represent himself.

H. L. RICHARDSON
State Senator, 19th District

Argument Against Proposition 3

Proposition 3 should be defeated because if we change the Constitution we would be depriving ourselves of a fundamental right, the right to defend ourselves in court. If a

person wants to represent himself, he certainly should have that right.

Proposition 3 would force upon a citizen a member of the legal profession. Lawyers have enough business as it is. Additionally, if Proposition 3 is adopted I can see our already vast, expensive tax-supported Public Defender facilities expanded, placing an unneeded and unwanted additional burden on the taxpayers of this State.

H. L. RICHARDSON
State Senator, 19th District

Rebuttal to Argument Against Proposition 3

In response to the arguments against Proposition 3, the following facts are offered:

1. Proposition 3 does not deprive us of our right to defend ourselves. It does authorize the legislature to ensure us the assistance of counsel when it is needed. We may still assist in our own defense, or, with the court's permission, act as co-counsel.
2. Proposition 3 will not give lawyers more work. Because it will shorten trials, reduce appeals, and eliminate retrials, it will give lawyers less work.
3. Proposition 3 will save money presently wasted on lengthy trials, appeals, and retrials. For example, the presence of the public defender will shorten trials. In Los Angeles each day the length of a trial is reduced saves the taxpayers \$1,100. Similar savings are effected by reduced appeals and retrials.

GORDON COLOGNE
State Senator

ANTHONY BEILENSON
State Senator

EVELLE J. YOUNGER
Attorney General
State of California

4 OPEN PRESIDENTIAL PRIMARY. Legislative Constitutional Amendment. Requires Legislature to provide for open presidential primary in which candidates on ballot are those found by Secretary of State to be recognized candidates throughout nation or California for office of President of the United States and such candidates whose names are placed on ballot by petition. Excludes any candidate who has filed affidavit that he is not a candidate.

YES

NO

(For full text of measure, see page 5, Part II)

General Analysis by the Legislative Counsel
A "Yes" vote on this measure is a vote to require the placement on the presidential primary ballot of the names of all recognized candidates for president and all candidates

qualified by virtue of nominating petitions, unless such a candidate withdraws.

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

For further details, see below.

Detailed Analysis by the Legislative Counsel

Section 2.5 of Article II of the California Constitution now permits the Legislature to enact laws relative to the election of delegates to conventions of political parties. The present statutory law provides for a separate ballot for each political party in the presidential primary, and for the election of slates of delegates to the conventions of those political parties. Each slate of candidates to be voted for is designated either as a slate of candidates expressing a preference for a named person as a candidate for nomination as presidential candidate of that party, or as a slate of candidates expressing no preference. Each slate of candidates for selection as delegates qualifies for placement on the ballot of a political party by filing nominating petitions signed by a specified number of eligible signers.

This measure would add Section 8 to Article II of the California Constitution. It would direct the Legislature to provide for an open presidential primary. It would require the Secretary of State to place upon the presidential primary ballot of the appropriate political party as its candidates for the office of President of the United States, the names of those persons who he determined to be either (a) recognized as candidates throughout the nation or (b) recognized as candidates throughout California. This measure would also require the placement on the ballot of the names of presidential candidates who qualified by virtue of nominating petitions. However, the name of any candidate would be excluded from the ballot if he withdrew himself from consideration by the filing of an affidavit that he was not a candidate.

Argument in Favor of Proposition 4

This Constitutional Amendment is designed to give voters a meaningful voice in choosing their party's presidential nominee. It requires the Legislature to provide for an open presidential primary in which the Secretary of State places on the ballot the names of recognized candidates for the office of President of the United States.

Persons not named by the Secretary of State may qualify for the ballot by circulating petitions as required by existing law.

Persons placed on the ballot and wishing to be removed may withdraw simply by filing an affidavit that they are not a candidate for President.

If the amendment is approved, it will become effective with the presidential primary of 1976.

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.

In the last presidential primary election, California voters were denied the opportunity of voting for or against either of the men who eventually became the presidential nominees.

Opponents claim an open primary would impair "party unity" and would require costly election campaigns. But who wants "party unity" at the expense of party members? And why shouldn't the candidates campaign in California as well as in New Hampshire, Indiana, and Oregon?

The open primary plan would make California the key state every presidential election. As the most populous state in the union,

it should be. It is time the voters have a say in nominating their party's candidate for the highest office in the land.

ALFRED E. ALQUIST
State Senator, 13th District

HOWARD WAY
State Senator, 15th District

Rebuttal to Argument in Favor of Proposition 4

Proponents of Proposition 4 have stated that in the last presidential primary election, California voters were denied the opportunity of voting for either of the men who eventually became the presidential nominees.

That statement is a half-truth. First, all California voters did have the opportunity to vote for or against the presidential nominees in the November 1968 general election. Second, if one or both of those men had desired to place their name before their own party members in California in June 1968, they could have done so. There is absolutely nothing in present law which prevented them from entering the primary. For their own reasons, they chose not to do so, and each man went on to gain the nomination of his party at the respective national conventions.

As we have said, each presidential candidate should be free to decide which primaries he will enter, and Proposition 4 will deny such candidates their freedom of decision.

Finally, proponents of Proposition 4 say, "... why shouldn't the candidates campaign in California as well as in New Hampshire, Indiana, and Oregon?" It is interesting to note that two of these three states have laws similar to California's—i.e., presidential candidates enter the primary only if they wish to. They are not forced to decide between

ing in the particular primary or com-
pulsorily disavowing their candidacy.

GEORGE DEUKMEJIAN
Senator, 37th District

E. RICHARD BARNES
Assemblyman, 78th District

Argument Against Proposition 4

Proposition 4 would provide for a so-called "open" presidential primary in California. This is misleading, for it implies that our present presidential primary is somehow "closed." The fact is that there is nothing in the current law to prevent any candidate and his supporters from entering the California primary.

This proposal gives just one man, the California Secretary of State, the right to determine which names will be placed on the ballot for the highest office in this country.

Under the present law, this determination is now made by the registered voters of each party. To appear on the ballot, a candidate and his supporters need only gather a reasonable number of signatures of registered voters who wish to have the candidate's name placed on the ballot.

The net effect of Proposition 4 is to take decisionmaking power away from the people, and give it instead to one individual—who is himself a partisan elected official.

Proposition 4 forces a candidate to enter the California primary. This means that he must commit an immense amount of time and money to a campaign here, even though he may feel that his chances for the nomination might better be served by using that time and money elsewhere.

It also means that he is forced to risk his entire candidacy. California's primary comes late in the year, usually just a few weeks before the national conventions. A defeat here could cause a candidate's rejection at his party's national nominating convention even though he had the overwhelming support of the majority of his party throughout the United States. Thus, Proposition 4 could result in denying the people of California and all Americans the opportunity to vote in the general election for the party's real choice for President.

Why do we say that a presidential candidate is forced to enter the California primary under this proposal? Because the only way he can have his name removed from the ballot

is by filing a formal affidavit that he is not a candidate. Please note that wording: he must state that he is not a candidate.

A man who may indeed be a serious and strong candidate for the presidential nomination loses his freedom of decision. Presidential candidates, after all, are free citizens of this country, too, and they should have the right to make their own decisions about which primaries they will enter in their quest for the nomination.

California's present presidential primary system already provides for direct citizen involvement; it in no way handicaps serious contenders for presidential office; and it is fair to both the people and the candidates. The present system should be retained; Proposition 4 should be defeated. Please vote NO.

GEORGE DEUKMEJIAN
Senator, 37th District

E. RICHARD BARNES
Assemblyman, 78th District

Rebuttal to Argument Against Proposition 4

The opponents of the open presidential primary argue semantics instead of reality.

Instead of limiting the right to place names on the ballot, this proposition will simply provide an additional process to that which already exists! Persons not placed on the ballot by the Secretary of State will have only to circulate petitions and secure signatures just as they do now and have done for many years.

By placing the names of all recognized candidates on the ballot the Secretary of State can help ensure that Californians have a chance to choose which candidate they wish to represent their party. California is the most populous state in the Union and serves as a cross section of the entire nation. It is only fitting that our presidential primary should be important in the selection of presidential nominees.

The open presidential primary will free the voters of California to choose their own candidates for President of the United States and take the decision out of the smoke-filled rooms.

ALFRED E. ALQUIST
State Senator, 13th District

HOWARD WAY
State Senator, 15th District

Exhibit E

Exhibit E

★ **ARGUMENT IN FAVOR OF PROPOSITION 14** ★

Our economy is in crisis. Unemployment in California is over 12%. The Legislature, whose members were all elected under the current rules, repeatedly fails to pass the state budget on time, or close the state's gaping \$20+ billion fiscal deficit.

Our state government is broken. But the politicians would rather stick to their rigid partisan positions and appease the special interests than work together to solve California's problems.

In order to change government we need to change the kind of people we send to the Capitol to represent us.

IT'S TIME TO END THE BICKERING AND GRIDLOCK AND FIX THE SYSTEM

- The politicians won't do it, but Proposition 14 will.
- Proposition 14 will open up primary elections. You will be able to vote for any candidate you wish for state and congressional offices, regardless of political party preference. It will reduce the gridlock by electing the best candidates.
 - Proposition 14 will give independent voters an equal voice in primary elections.
 - Proposition 14 will help elect more practical office-holders who are more open to compromise.

"The best part of the open primary is that it would lessen the influence of the major parties, which are now under control of the special interests." (*Fresno Bee*, 2/22/09.)

PARTISANSHIP IS RUNNING OUR STATE INTO THE GROUND

Non-partisan measures like Proposition 14 will push our elected officials to begin working together for the common good.

Join AARP, the California Alliance for Jobs, the California Chamber of Commerce and many Democrats, Republicans, and independent voters who want to fix our broken government. Vote YES on Proposition 14.

Vote Yes on 14—for elected representatives who are LESS PARTISAN and MORE PRACTICAL.

www.YESON14OPENPRIMARY.com

JEANNINE ENGLISH, AARP
California State President
JAMES EARP, Executive Director
California Alliance for Jobs
ALLAN ZAREMBERG, President
California Chamber of Commerce

★ **REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 14** ★

Politicians wrote Proposition 14 to change the law so they can conceal their party affiliation on the election ballot. Voters won't know whether they are choosing a Democrat, Republican, Libertarian, or Green Party candidate.

The proponents claim their measure will stop partisan politics. But how is allowing politicians to hide their party affiliation going to fix partisanship? Proposition 14 is politicians trying to trick voters into thinking they are "independent."

What the proponents don't tell you is that special interests are raising hundreds of thousands of dollars to pass Proposition 14, including money from health insurance corporations, developers and financial institutions, because Proposition 14 will make it easier for them to elect candidates they "choose." But you won't know which political party the candidate belongs to.

Proposition 14 will decrease voter choice. It prohibits write-in candidates in general elections. Only the top two vote getters advance to the general election regardless of political party. Special interests with money will have the advantage in electing candidates they support.

Currently, only two states use "top-two" elections. In 2008, Washington State had 139 races and only ONE incumbent lost a primary. Proposition 14 will protect incumbents.

California Nurses, Firefighters and Teachers have joined with groups like the Howard Jarvis Taxpayers Association to oppose Proposition 14. These organizations don't usually agree on political issues. But this time they do.

Candidates who ask for your vote shouldn't be allowed to conceal their political party.

Stop the special interest tricks. No on Proposition 14.

ED COSTANTINI, Professor Emeritus of Political Science
University of California, Davis
NANCY J. BRASMER, President
California Alliance of Retired Americans
STEVE CHESSIN, President
Californians for Electoral Reform

★ **ARGUMENT AGAINST PROPOSITION 14** ★

Proposition 14 was written in the middle of the night and put on the ballot by a couple of politicians and Arnold Schwarzenegger. They added their own self-serving little twist.

They call it an “open primary” but **CANDIDATES WILL BE ALLOWED TO CONCEAL THEIR PARTY AFFILIATION FROM VOTERS.** The current requirement that candidates list their party on the ballot is abolished.

Proposition 14 will also decrease voter choice and make elections more expensive:

- The general election will not allow write-in candidates.
 - Elections will cost more money at a time when necessary services like firefighters, police and education are being cut. County election officials predict an increased cost of 30 percent.
 - Voter choice will be reduced because the top two vote getters advance to the general election regardless of political party.
 - This means voters may be forced to choose between two candidates from the same political party. Democrats could be forced to choose between two Republicans, or not vote at all. Republicans could be forced to choose between two Democrats, or not vote at all.
 - Independent and smaller political parties like Greens and Libertarians will be forced off the ballot, further reducing choice.
- Can't politicians ever do anything without scheming something that's in their self-interest?

Here's the zinger they stuck in Proposition 14 . . .

“Open Candidate Disclosure. At the time they file to run for public office, all candidates shall have the choice to declare a party preference. The names of candidates who choose not to declare a party preference shall be accompanied by the designation ‘No Party Preference’ on both the primary and general election ballots.”

Very clever! They're making it look like they are “independents” while actually remaining in their political party. *Business as usual disguised as “reform.”*

POLITICIANS ARE CHANGING THE LEGAL REQUIREMENT THAT MAKES THEM DISCLOSE THEIR POLITICAL PARTY.

Democrats will end up voting for Republican imposters. Republicans will end up voting for Democratic imposters.

Will you be voting for a member of the Peace and Freedom Party? The Green Party? The Libertarian Party? You won't really know.

Special interest groups will pump money into trick candidates . . . imposters with hidden agendas we can't see.

Currently, when a rogue candidate captures a nomination, voters have the ability to write-in the candidate of their choice in the general election. But a hidden provision **PROHIBITS WRITE-IN VOTES** from being counted in general elections if Prop. 14 passes.

That means if one of the “top two” primary winners is convicted of a crime or discovered to be a member of an extremist group, voters are out of luck because Prop. 14 ends write-in voting.

Firefighters have joined with teachers, nurses and the Howard Jarvis Taxpayers Association opposing this initiative.

“The politicians behind Prop. 14 want to raise taxes without being held accountable. Vote NO.”— Jon Coupal, President Howard Jarvis Taxpayers Association

We need “Open Primaries” to be “Open.” That means full disclosure on the ballot and no tricks. No on Proposition 14.

KEVIN R. NIDA, President

California State Firefighters' Association

ALLAN CLARK, President

California School Employees Association

KATHY J. SACKMAN, RN, President

United Nurses Associations of California / Union of Health Care Professionals

★ **REBUTTAL TO ARGUMENT AGAINST PROPOSITION 14** ★

Proposition 14 is supported by people like you who are sick of the mess in Sacramento and Washington D.C. and want to do something about it.

The opponents of Proposition 14 are primarily special interests who helped create this mess and benefit from the way things are.

Their claims are deceptive and absurd.

FACT: If Proposition 14 passes, every candidate's party registration for the past decade will be posted publicly. This means no candidate will be able to mislead voters about their party registration history. And it's more disclosure than is required of candidates today.

FACT: Proposition 14 will have no significant financial impacts whatsoever.

Why do opponents of reform make these false charges? Because they benefit from a system that is broken.

Vote yes on 14 to:

- Reduce gridlock by electing the best candidates to state office and Congress, regardless of political party;
- Give independent voters an equal voice in primary elections; and
- Elect more practical individuals who can work together for the common good.

Vote Yes on 14. We've had enough.

www.YESON14OPENPRIMARY.com

JEANNINE ENGLISH, AARP

California State President

CARL GUARDINO, President

Silicon Valley Leadership Group

ALLAN ZAREMBERG, President

California Chamber of Commerce

Exhibit F

Exhibit F

ELECTIONS. INCREASES RIGHT TO PARTICIPATE IN PRIMARY ELECTIONS.

- Encourages increased participation in elections for congressional, legislative, and statewide offices by changing the procedure by which candidates are selected in primary elections.
- Gives voters increased options in the primary by allowing all voters to choose any candidate regardless of the candidate's or voter's political party preference.
- Provides that candidates may choose not to have a political party preference indicated on the primary ballot.
- Provides that only the two candidates receiving the greatest number of votes in the primary will appear on the general election ballot regardless of party preference.
- Does not change primary elections for President, party committee offices and nonpartisan offices.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- No significant net change in state and local government costs to administer elections.

**FINAL VOTES CAST BY THE LEGISLATURE ON SCA 4 (PROPOSITION 14)
(Resolution Chapter 2, Statutes of 2009)**

Senate:	Ayes 27	Noes 12
Assembly:	Ayes 54	Noes 20

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND**

Primary and General Elections. California generally holds two statewide elections in even-numbered years to elect candidates to state and federal offices—a primary election (in June) and a general election (in November). These elections (such as those for Governor and Members of Congress) are partisan, which means that most candidates are associated with a political party. For these partisan offices, the results of a primary election determine each party's nominee for the office. The candidate receiving the most votes in a party primary election is that party's nominee for the general election. In the general election, voters choose among all of the parties' nominees, as well as any independent candidates. (Independent

candidates—those not associated with a party—do not participate in primary elections.) The winner of the general election then serves a term in that office.

Ballot Materials Under Current Primary System. For every primary election, each county prepares a ballot and related materials for each political party. Those voters affiliated with political parties receive their party's ballot. These party ballots include partisan offices, nonpartisan offices, and propositions. Voters with no party affiliation receive ballots related only to nonpartisan offices and propositions. Parties, however, may allow voters with no party affiliation to receive their party's ballot.

Partisan Statewide Elections in California. Partisan elections for state office include those for the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Insurance Commissioner, Attorney General, the 120 members of the Legislature, and four members of the State Board of Equalization. (The Superintendent of Public Instruction is a nonpartisan state office.) Partisan elections also are held for federal offices including President, Vice President, and Members of Congress.

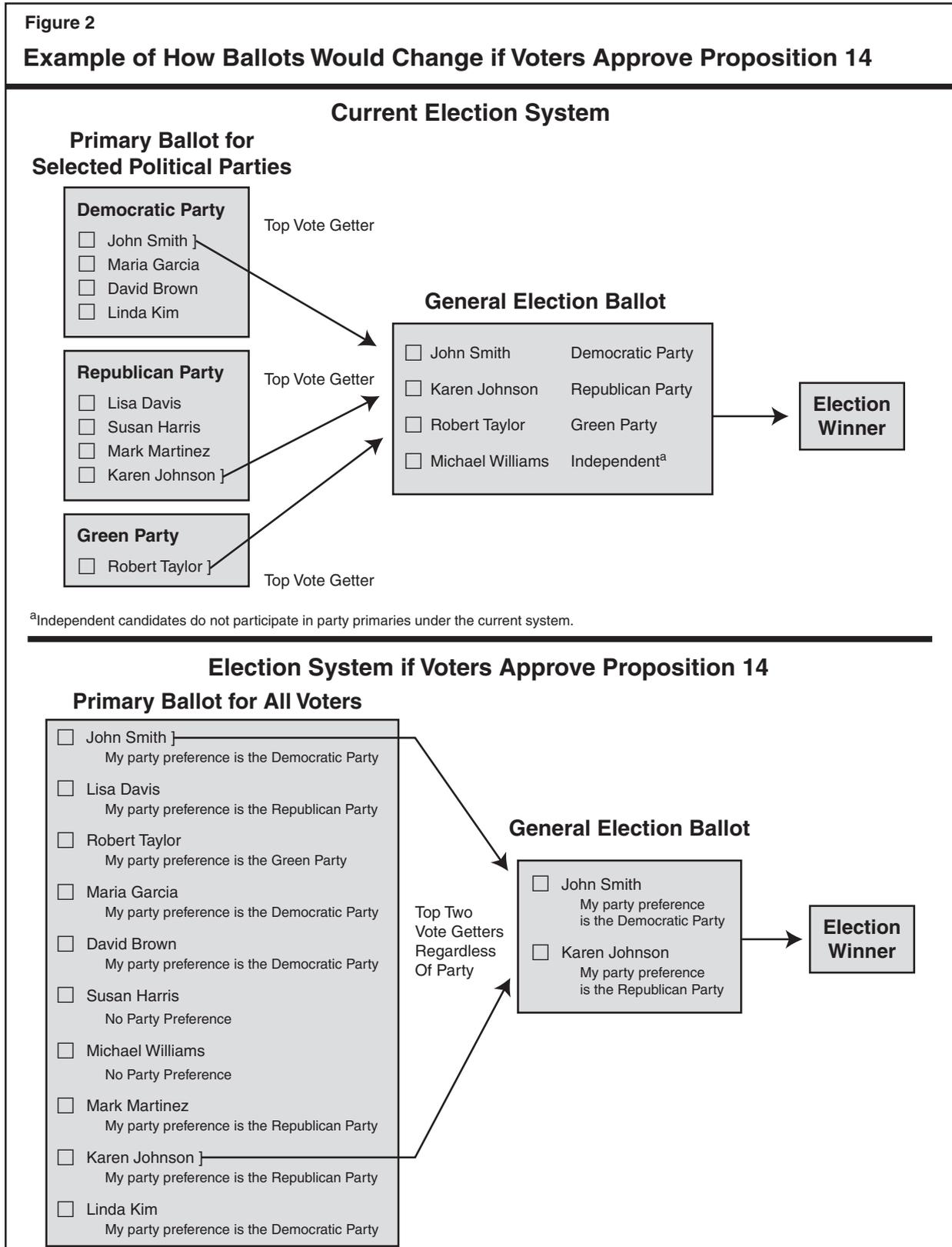
PROPOSAL

This measure, which amends the State Constitution, changes the election process for most state and federal offices. Its provisions and related legislation would take effect for elections after January 1, 2011.

Creates a Top-Two Primary Election. This measure creates a single ballot for primary elections for those congressional and state elective offices shown in Figure 1. Candidates would indicate for the ballot either their political party (the party chosen on their voter registration) or no party preference. All candidates would be listed—including independent candidates, who now would appear on the primary ballot. Each voter would cast his or her vote using this single primary ballot. A voter registered with the Republican Party, for example, would be able to vote in the primary election for a candidate registered as a Democrat, a candidate registered as a Republican, or any other candidate. The two candidates with the highest number of votes in the primary election—regardless of their party preference—would advance to compete in the general election. In fact, the two candidates in the general election could have the same party preference.

<p>Figure 1 Offices Affected by Proposition 14</p>
<p>Statewide Officials Governor Lieutenant Governor Secretary of State Treasurer Controller Insurance Commissioner Attorney General</p>
<p>Other State Officials State Senators State Assembly Members State Board of Equalization Members</p>
<p>Congressional Officials United States Senators Members of the U.S. House of Representatives</p>

Figure 2 illustrates how a ballot for an office might appear if voters approve this measure and shows how this is different from the current system.



Does Not Affect Presidential Elections and Political Party Leadership Positions. Under this measure, there would still be partisan primary elections for presidential candidates and political party offices (including party central committees, party officials, and presidential delegates).

FISCAL EFFECTS

Minor Costs and Savings. This measure would change how elections officials prepare, print, and mail ballot materials. In some cases, these changes could increase these state and county costs. For instance, under this measure, all candidates—regardless of their party preference—would be listed on each primary election ballot. This would make these ballots longer. In other cases, the measure would reduce election costs. For example, by eliminating in some instances the need to prepare different primary ballots for each political

party, counties sometimes would realize savings. For general election ballots, the measure would reduce the number of candidates (by only having the two candidates who received the most votes from the primary election on the ballot). This would make these ballots shorter. The direct costs and savings resulting from this measure would be relatively minor and would tend to offset each other. Accordingly, we estimate that the measure’s fiscal effects would not be significant for state and local governments.

Indirect Fiscal Effects Impossible to Estimate. In some cases, this measure would result in different individuals being elected to offices than under current law. Different officeholders would make different decisions about state and local government spending and revenues. These indirect fiscal effects of the measure are unknown and impossible to estimate.