

1998

Partisan Presidential Primary Elections.

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Partisan Presidential Primary Elections. Legislative Initiative Amendment.

Official Title and Summary Prepared by the Attorney General

PARTISAN PRESIDENTIAL PRIMARY ELECTIONS. LEGISLATIVE INITIATIVE AMENDMENT.

- Changes existing open primary law to require closed, partisan primary for purpose of selecting delegates to presidential nominating conventions of national political parties.
- Limits voting for such delegates to voters registered by party affiliation.
- Requires separate partisan ballots for selection of such delegates.
- Restricts voting of such partisan ballots to members of the particular political party.

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

- Minor costs to state government.
- Minor costs to county governments statewide.

Final Votes Cast by the Legislature on SB 1505 (Proposition 3)

Assembly: Ayes 52	Senate: Ayes 28
Noes 12	Noes 0



Background

In general, California has three types of elections: primary, general, and special. Primary elections are held both for partisan offices, where candidates are identified on the ballot with a political party, and nonpartisan offices, where candidates are not identified with a political party. When registering to vote or transferring voter registration, each voter is authorized to affiliate with a political party, or may decline to state a political affiliation.

Proposition 198, adopted by the voters at the March 1996 election, allows all voters in primary elections, including those not affiliated with a political party, to vote for *any* candidate for a specific office regardless of the candidate's political party affiliation. Thus, a voter at a primary election is allowed to vote for candidates across party lines. The candidate of each political party who receives the most votes for a state elective office becomes the nominee of that party at the next general election.

Accordingly, county elections officials prepare a ballot for all voters, and candidates for office are listed randomly on the ballot and are not separated by political party affiliation.

These provisions do not apply to elections of political party committee members. In this case, a voter is restricted to voting for candidates of his or her own political party. However, in a presidential primary, a voter is allowed to cross party lines in voting for

delegates to a party's presidential nominating convention. Those delegates, along with delegates from other states, select the nominees of their respective political party for President and Vice President of the United States at a party nominating convention.

Proposal

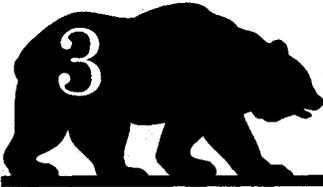
Under this measure, a voter could not cross party lines when voting for delegates to a political party's presidential nominating convention. A voter would only be permitted to vote for delegates to a presidential nominating convention of a political party with which the voter is affiliated.

Accordingly, county elections officials would be required by this measure to prepare additional and separate partisan presidential primary ballots for the selection of delegates to presidential nominating conventions for the sole use of persons registered with that political party.

Fiscal Effect

This measure would result in minor costs to state government to coordinate efforts by county election officials to comply with the new ballot preparation provisions. The measure also would result in minor costs to county governments statewide for preparing and printing additional ballots and for modifying current vote-counting procedures to accommodate the required separate partisan ballots.

For the text of Proposition 3 see page 85



Partisan Presidential Primary Elections. Legislative Initiative Amendment.

Argument in Favor of Proposition 3

PROPOSITION 3 MUST BE APPROVED AND ENACTED at this statewide election—otherwise California voters will *NOT* be allowed to participate in the Year 2000 national presidential nominating process.

Without *Proposition 3*, California voters will have their **VOTING POWER STRIPPED AWAY!** California voters will *NOT* be allowed to help select their own political parties' presidential nominees even though voters from the *OTHER* 49 states will participate. The California delegation, which helps select the presidential nominees, will be arbitrarily selected by **BACKROOM POLITICIANS** instead of by primary voters in a regulated process. This is true for California's Democrats, Republicans and members of other political parties! **THE UNITED STATES SUPREME COURT HAS SAID SO!**

Proposition 3 would enact the **SAVE THE PRESIDENTIAL PRIMARY ACT OF 1998**—fixing an unintended error contained in California's open primary law. *Proposition 3* **FIXES** this error!

If *Proposition 3* is enacted, *California voters will STILL be able to cast primary votes for any party's candidates* for U.S. senator, congressman, governor, lieutenant governor, attorney general, state senator or state assemblymember.

The national Democratic, Republican and other political parties have rules which prohibit them from accepting convention delegations elected in open primary states. Why? Because the convention delegates do more than just nominate presidential candidates—they also write all the national party rules and elect the national chairs of their own parties. The United States Supreme Court has ruled that national political parties may refuse, according to their own rules, to seat delegations from open-primary states at the parties' national

presidential nominating conventions.

Proposition 3 would bring California state law into conformity with Democratic and Republican National Committee rules and regulations. Specifically, it would allow California primary voters to vote only for presidential delegates from the political party in which the voters are registered members. Presidential delegate selection would be treated the same way the Open Primary Act currently treats election of county central committee representatives.

Surveys show that *most California voters wrongly believe* that they are voting for the *candidate* when they vote in a presidential primary. In all 50 states primary voters are *NOT* voting for the candidate—but actually are voting for a long slate of delegates *pledged* to that candidate. The lists of delegates are maintained at the Secretary of State's office and your county registrar of voters. Each presidential candidate has a unique list of pledged delegates. That pledged delegation which gets the most votes goes to the party's national nominating convention to join with the delegations from the other states to help select the party's presidential nominee.

Join Democratic Senate President Pro Tempore John Burton, Senate Republican Leader Ross Johnson, Democratic Assembly Speaker Antonio Villaraigosa, and Assembly Republican Leader Bill Leonard in protecting the right of Californians to participate in national political party nominations for president. Vote **YES** on *Proposition 3*.

JOHN R. LEWIS
Senator, Orange County

JOHN L. BURTON
Senate President Pro Tempore, San Francisco

BRUCE HERSCHENSOHN

Rebuttal to Argument in Favor of Proposition 3

In the argument favoring *Proposition 3*, its proponents state that unless *Proposition 3* passes, California voters will not be allowed to participate in the Presidential nominating process. Yet later in the argument the proponents state that the political parties *may* refuse to seat delegates from open-primary states. In fact, both parties have mechanisms in their rules to allow for California delegates to be seated.

The truth is that there are 24 states with some version of the open primary. And California voters passed the open primary in 1996 by 60% of the vote.

The National political party bosses are not going to frustrate the voters of California by refusing to honor their vote. We Californians represent over 10% of the

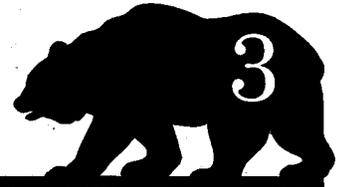
nation's Presidential votes. Our voice must and will be heard.

To pass *Proposition 3* means that independent voters (those not registered in any party) cannot vote in the Presidential primary. Neither can voters registered in one party cross over and vote for a candidate from another party. *Proposition 3* is yet another attempt by political power brokers to overturn the will of the voters.

Let democracy have its full voice. Vote No on *Proposition 3*.

JACK SCOTT
Assemblymember, 44th District

Partisan Presidential Primary Elections. Legislative Initiative Amendment.



Argument Against Proposition 3

California's voters overwhelmingly approved the open primary in 1996 and used it for the first time last June. For the first time, ALL voters—no matter what their party affiliation—could vote for the candidate of their choice instead of being forced to choose between several Republican candidates or several Democratic candidates.

Thousands of voters took the opportunity to cross "party lines" and cast ballots for the person they thought could best represent them in office. Independent voters not affiliated with any political party were able to vote for candidates in the primary for the first time.

Affording voters more choices is healthy for democracy and good for the government of California.

We have just begun this change, and we should give it a fair chance to work.

That's why you should VOTE NO ON PROPOSITION 3.

Proposition 3 would limit the primary election for the most important office we decide upon: President of the United States.

Proposition 3 would allow only voters who are registered to vote with a particular political party to cast ballots for the delegates that choose Presidential nominees. Democrats would be allowed to choose only between Democrat slates. Republicans would be allowed to choose only between Republican slates.

Independent voters would not be allowed to vote for Presidential delegates at all!

Let's not turn back the clock on reform. Let's keep California's primary open by Voting NO on Proposition 3.

JACK SCOTT
Assemblymember, 44th District

Rebuttal to Argument Against Proposition 3

The national and state Democratic, Republican and other parties have indicated that if Proposition 3 is not passed, then **THEY MAY ELIMINATE VOTER PRIMARIES ALTOGETHER AND USE A CAUCUS, CONVENTION OR BACKROOM PROCESS** to select California presidential delegates. It's their legal right!

THE OPPONENTS TO PROPOSITION 3 ARE TERRIBLY MISINFORMED!

THEY'RE GAMBLING WITH YOUR RIGHT TO VOTE, TRYING TO WIN A BATTLE ALREADY LOST IN FEDERAL COURT SEVENTEEN YEARS AGO!

The Supreme Court has ruled that one state's election laws **CANNOT** dictate to the political parties and other 49 states how they conduct **NATIONAL** business.

The opponents believe they can "bully" all national political parties and the other states into seating the California open-primary delegations though that conflicts with national party rules approved by nearly all the states.

The opponents say the parties can change their rules and seat the California delegations. **THEY ARE WRONG!** The national rules **CANNOT** be ignored. Only a last-minute vote, after the convention has started, by the *combined delegations of all the states* on the convention floor can seat any California open-primary delegation. **BUT THE CALIFORNIA DELEGATION ITSELF CANNOT CAST A VOTE TO SEAT ITSELF!**

PROTECT YOUR RIGHT TO CAST A MEANINGFUL VOTE FOR PRESIDENT! Proposition 3 **FIXES** the Open Primary Act so that **YOUR VOTE ONCE AGAIN COUNTS** at the national level!

ANTONIO R. VILLARAIGOSA
Speaker of the California State Assembly
BILL LEONARD
Assembly Republican Leader

those provisions existed on October 1, 1997. Neither the county nor the Legislature may authorize the expenditure of money in a

local transportation fund for purposes other than those specified in this subdivision.

Proposition 3: Text of Proposed Law

This law proposed by Senate Bill 1505 (Statutes of 1998, Chapter 147) is submitted to the people in accordance with the provisions of Article II, Section 10 of the California Constitution.

This proposed law amends sections of the Elections Code; existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. This act shall be known and may be cited as the Save the Presidential Primary Act of 1998.

SEC. 2. Section 2151 of the Elections Code is amended to read:

2151. At the time of registering and of transferring registration, each elector may declare the name of the political party with which he or she intends to affiliate at the ensuing primary election. The name of that political party shall be stated in the affidavit of registration and the index.

The voter registration card shall inform the affiant that any elector may decline to state a political affiliation, and that all properly registered voters may vote for their choice at any primary election for any candidate for each office regardless of political affiliation and without a declaration of political faith or allegiance, *but no person shall be entitled to vote the ballot of any political party for delegates to a party's presidential nominating convention unless the person has stated the name of that party with which he or she intends to affiliate*. The voter registration card shall include a listing of all qualified political parties.

Notwithstanding any provision to the contrary, no person shall be permitted to vote the ballot for any elective political party central or district committee member other than the party designated in his or her registration, except as provided by Section 2152.

SEC. 3. Section 13203 of the Elections Code is amended to read:

13203. (a) Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 30-point, the words "OFFICIAL BALLOT." However, if the ballot is no wider than a single column, the words "OFFICIAL BALLOT" may be as small as 24-point. Beneath this heading, in the case of an official primary election, shall be printed in 18-point boldfaced gothic capital type the words "OFFICIAL PRIMARY BALLOT." Beneath the heading line or lines, there shall be printed, in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.

(b) *Partisan ballots used in a presidential primary election for selection of delegates for a party's presidential nominating convention shall prominently specify the name of the political party.*

SEC. 4. Section 13206 of the Elections Code is amended to read:

13206. (a) On the *official primary* ballot used in a direct primary election, immediately below the instructions to voters, there shall be a box one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the ballot and shall be set directly above these columns. Within the box shall be printed in 24-point boldfaced gothic capital type the words "Partisan Offices."

(b) The same style of box described in subdivision (a) shall

also appear over the columns of the nonpartisan part of the *official primary* ballot and within the box in the same style and point size of type shall be printed "Nonpartisan Offices."

(c) This section shall not apply to *partisan presidential primary ballots* or ballots for elective political party central or district committee members prepared in accordance with Section 13300.

SEC. 5. Section 13300 of the Elections Code is amended to read:

13300. (a) By at least 29 days before the primary election, each county elections official shall prepare identical sample ballots for each voter ; ; provided, however, that (1) in the case of ballots involving elective political party central or district committee members, each county elections official shall prepare separate ballots for the sole use of persons registered with that party, as provided for in Section 2151, and (2) *in the case of partisan primary ballots involving the selection of delegates to the presidential nominating convention of a political party, each county elections official shall prepare separate ballots for the sole use of persons registered with that political party*. On the official identical primary ballots, each county elections official shall place thereon in each case in the order provided in Chapter 2 (commencing with Section 13100), and under the appropriate title of each office, the names and party affiliations of all candidates organized randomly as provided in Section 13112 and not grouped by political party, for whom nomination papers have been duly filed with him or her or have been certified to him or her by the Secretary of State to be voted for in his or her county at the primary election.

(b) The sample ballots shall be identical to the official ballots *and partisan presidential primary ballots*, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) Except as provided in Section 13230, one sample official primary ballot shall be mailed to each voter entitled to vote at the primary not more than 40 nor less than 10 days before the election.

SEC. 6. Section 13301 of the Elections Code is amended to read:

13301. (a) At the time the county elections official prepares sample *partisan* ballots for the presidential primary, he or she shall also prepare a list with the name of candidates for delegates for each political party. The names of the candidates for delegates of any political party shall be arranged upon the list of candidates for delegates of that party in parallel columns under their preference for President. The order of groups on the list shall be alphabetically according to the names of the persons they prefer appear upon the ballot. Each column shall be headed in boldface 10-point, gothic type as follows: "The following delegates are pledged to _____." (The blank being filled in with the name of that candidate for presidential nominee for whom the members of the group have expressed a preference.) The names of the candidates for delegates shall be printed in eight-point, roman capital type.

(b) Copies of the list of candidates for delegates of each party shall be submitted by the county elections official to the chairman of the county central committee of that party, and the county elections official shall post a copy of each list in a conspicuous place in his or her office.

SEC. 7. Section 13302 of the Elections Code is amended to read:

13302. The county elections official shall forthwith submit the sample official primary ballot *and partisan primary ballot*,

Text of Proposed Laws—Continued

if any, to the chairperson of the county central committee of each political party, and shall mail a copy to each candidate for whom nomination papers have been filed in his or her office or whose name has been certified to him or her by the Secretary of

State, to the post office address as given in the nomination paper or certification. The county elections official shall post a copy of the sample ballot or ballots in a conspicuous place in his or her office.

Proposition 4: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure adds sections to the Fish and Game Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 3003.1 is added to the Fish and Game Code, to read:

3003.1. *Notwithstanding Sections 1001, 1002, 4002, 4004, 4007, 4008, 4009.5, 4030, 4034, 4042, 4152, 4180, or 4181:*

(a) *It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps shall not be considered body-gripping traps.*

(b) *It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005, of any fur-bearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in subdivision (a).*

(c) *It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or*

authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, protected mammal, or any dog or cat.

The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.

(d) *For purposes of this section, fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.*

SEC. 2. Section 3003.2 is added to the Fish and Game Code, to read:

3003.2. *Notwithstanding Sections 4003, 4152, 4180, or 4180.1 of this code or Section 14063 of the Food and Agricultural Code, no person, including an employee of the federal, state, county, or municipal government, may poison or attempt to poison any animal by using sodium fluoroacetate, also known as Compound 1080, or sodium cyanide.*

SEC. 3. Section 12005.5 is added to the Fish and Game Code, to read:

12005.5. *Notwithstanding Sections 12000 and 12002, a violation of Section 3003.1 or 3003.2, or any rule or regulation adopted pursuant thereto, is punishable by a fine of not less than three hundred dollars (\$300) or more than two thousand dollars (\$2,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The Legislature may increase, but may not decrease, these penalties.*

Proposition 5: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title 16 (commencing with Section 98000) is added to the Government Code, to read:

TITLE 16. STATE-TRIBAL AGREEMENTS GOVERNING INDIAN GAMING

CHAPTER 1. THE TRIBAL GOVERNMENT GAMING AND ECONOMIC SELF-SUFFICIENCY ACT OF 1998

98000. *This chapter shall be known and may be cited as "The Tribal Government Gaming and Economic Self-Sufficiency Act of 1998."*

98001. (a) *The people of the State of California find that, historically, Indian tribes within the state have long suffered from high rates of unemployment and inadequate educational, housing, elderly care, and health care opportunities, while typically being located on lands that are not conducive to economic development in order to meet those needs. Federal law provides a statutory basis for conducting licensed and regulated tribal government gaming on, and limited to, qualified Indian lands, as a means of strengthening tribal self-sufficiency through the creation of jobs and tribal economic development.*

Federal law also provides that certain forms of gaming, known as "class III gaming," will be the subject of an agreement between a tribe and the state (a "Tribal-State compact"), pursuant to which that gaming will be governed.

(b) *The people of the state find that uncertainties have developed over various issues concerning class III gaming and the development of Tribal-State compacts between the state and tribes, and that those uncertainties have led to delays and considerable expense. The Tribal-State compact terms set forth in Section 98004 (the "Gaming Compact"), including the geographic confinement of that gaming to certain tribal lands, the agreement and limitations on the kinds of class III gaming in which a tribe operating thereunder may be engaged, and the regulation and licensing required thereunder, are intended to resolve those uncertainties in an efficient and cost-effective way, while meeting the basic and mutual needs of the state and the tribes without undue delay. The resolution of uncertainty regarding class III gaming in California, the generation of employment and tribal economic development that will result therefrom, and the limitations on the growth of gaming in California that are inherent therein, are in the best and immediate interest of all citizens of the state. This chapter has been enacted as a matter of public policy and in recognition that it fulfills important state needs. All of the factors the state could consider in negotiating a Tribal-State compact under federal law have been taken into account in offering to tribes the terms set forth in the Gaming Compact.*

(c) *The people of the state further find that casinos of the type currently operating in Nevada and New Jersey are materially*