

Proposition 14: Revisiting California's Election Law

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Introduction & Current System

Elections have two main parts: first, determining which candidates appear on the ballot and, second, voting for those candidates. This proposal substantially changes the first piece. Across the fifty states, there are substantial differences in how candidates qualify for general election ballots. Even in California, the process has been overhauled in both 1996 and 2000.¹ Proposition 14, if we approve it, would redo the system again for the offices in the table below.

Offices Effected Under This Plan		
Federal	State (Executive)	State (Legislative)
Senators and Representatives	Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Insurance Commissioner, and Board of Equalization Members	Senators and Assemblymembers

Right now, there are two ways for candidates to be put on a general election ballot. First (and by far the most common), each political party in the state controls a ballot line and can place a selected party member (its nominee) on the ballot with the party's name explicitly listed. Second, an individual unaffiliated with any party can gather a requisite number of signatures and be placed on the ballot listed as an "Independent."

To be a recognized political party in the state and own a ballot line, a group must demonstrate a certain degree of support based off of either membership or past electoral success. Currently, six groups have that status (the American Independent, Democratic, Green, Libertarian, Peace & Freedom, and Republican Parties). Prior to the general election, the state holds a primary election in which party members compete against each other, and the candidate receiving the most votes becomes the party nominee and automatically earns placement on the general election ballot.

Meanwhile, individual voters have three options for how to participate in this process although the overwhelming majority choose one of two: most (79%) opt to register with a party, but an appreciable minority (20%) chooses to remain unaffiliated, a status known as decline to state (DTS) or independent. The table below discusses the rights and benefits of each status.²

¹ For a brief history of California's previous primary election systems, see Secretary of State, "Decline-to-State Information" (online, available: <[http:// http://www.sos.ca.gov/elections/elections_decline.htm](http://www.sos.ca.gov/elections/elections_decline.htm)>, 4 February, 2010). For an extensive analysis up through its publication, see Bruce E. Cain and Elisabeth R. Gerber, eds., *Voting at the Political Fault Line* (Berkeley, CA: University of California Press, 2002).

² For more, see Secretary of State, "Decline-to-State."

Current Voter Registration Statuses		
Status	Description	Voters in Status³
Registered with a recognized party	During primary elections, these voters automatically receive ballots for their party's contests and cannot participate in any other party's business. They also get to vote for members of their party's local county governing body, known as the Party Central Committee.	13,596,819 (79%)
Registered as decline to state (DTS)	DTS voters are popularly known as independents. Each party chooses whether to invite DTS voters to participate in its primaries, and DTS voters get to choose either a ballot from among those parties or a ballot containing only non-party business (such as propositions and municipal elections). However, when DTS voters participate in a party's primary, they cannot vote in the election for Party Central Committee members.	3,435,870 (20%)
Registered with an unrecognized party	These voters choose to join a group that is seeking to become a recognized party but that does not yet have the support to do so.	50,248 (0%)
Other	They are on the voter rolls as unclassified in any status. This is possibly because their registration is pending.	70,075 (0%)

Background

In February, 2009, a major state deficit resulted in the Legislature negotiating a budget compromise. It agreed to this election plan as part of some broader systemic changes within that compromise. With a two-thirds vote required, the plan passed 54-20 in the Assembly⁴ and 27-12 in the Senate.⁵ However, because the proposal amends the State Constitution, implementation also requires our approval.

Proposal⁶

Proposition 14 takes away the parties' ballot lines. Instead, there would be a two-round election in which all candidates, irrespective of party affiliation, would appear on a common ballot, and all voters could participate. The top two candidates in the first round would then proceed to a second round, and the winner of that round would be elected. There would always be a second even if, in the first, a candidate won a majority or there were only two candidates.

Candidates could also choose whether to list a party next to their names. Currently, on a general election ballot, the party that nominated the candidate automatically appears next to the candidate's name. Under this plan, candidates could list a party or just have the words "No Party Preference" appear instead.

³ Registration numbers come from the Secretary of State's most recent report. Secretary of State, "Report of Registration" (4 May 2009) (online, available: <<http://www.sos.ca.gov/elections/ror/ror-pages/15day-stwdsp-09/ror-050409.htm>>, 4 February, 2010).

⁴ State Senate, "UNOFFICIAL BALLOT" (online, available: <http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sca_4_vote_20090219_0634AM_asm_floor.html>, 4 February, 2010).

⁵ State Senate, "UNOFFICIAL BALLOT" (online, available: <http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sca_4_vote_20090219_0447AM_sen_floor.html>, 4 February, 2010).

⁶ For the text of the proposal itself, see "Senate Constitutional Amendment No. 4" (online, available: <<http://www.sos.ca.gov/elections/ballot-measures/pdf/sca-4-bill-20090219-chaptered.pdf>>, 4 February, 2010). Also, the Public Policy Institute of California (PPIC) has published a report on Proposition 14's potential impact on voting behavior and patterns. Eric McGhee, PPIC, "Open Primaries" (online, available: <http://www.ppic.org/content/pubs/atissue/AI_210EMAI.pdf>, 16 February 2010).

This plan would not govern elections for the parties' Central Committees or for delegates to their national conventions. Parties could restrict voting in these contests to registered party members.

The plan would be implemented on January 1, 2011, which most likely means that it would first effect the 2012 statewide elections.

Collateral Impact on Parties⁷

Currently, to be recognized in California, a party must attain one of the following:

1. *Enough voters registering with the party.* The number must exceed 1% of those who participated in the last gubernatorial general election (which is currently the November 7, 2006 election and equals 88,991).
2. *Enough voters signing a petition stating their desire to have the party recognized.* The number must exceed 10% of the last gubernatorial general election's participants (currently 889,906).
3. *Sufficient strength at the polls.* To meet this criterion, one of the party's nominees must win more than 2% of the vote in any statewide race during the last gubernatorial general election.

Because Proposition 14 eliminates partisan general elections, the third option would no longer be available. Parties would have to receive and sustain their certification based only on the first two.

Possible Incompatibility with Proposition 15

Under California law, if two propositions pass simultaneously and are contradictory, then the one that received greater support supersedes the other to the extent that they disagree. On June 8, we will also vote on Proposition 15, a proposal that changes campaign funding regulations based on the current election system. Proposition 15's text explicitly refers to and sets rules regarding partisan elections, which Proposition 14 would eliminate. It is unclear whether passage of Proposition 15 would, by implication, constitute our support for partisan elections continuing and thus contradict Proposition 14. If both pass, there may be litigation over the question of whether the two are contradictory or could be mutually reconciled.

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⁷ For more details on the certification of parties, see Secretary of State, "Political Party Qualification" (online, available: <http://www.sos.ca.gov/elections/elections_t.htm>, 6 February, 2010).