

Information Sheet Qualifications and Requirements

Member of the State Senate, 40th District Special Election

The Governor issued the proclamation for a special **GENERAL** election to be held on **May 14, 2013**. The date of the special **PRIMARY** election is scheduled for **March 12, 2013**.

The date of the special primary election is calculated by counting back nine Tuesdays preceding the day of the special general election at which the vacancy is to be filled.

§ 10704(a)¹

I. QUALIFICATIONS

Every candidate shall:

- A. Be a U.S. citizen² Cal. Const., art. IV, § 2(c)
- B. Be a registered voter and otherwise qualified to vote for that office at the time nomination papers are issued to the person. § 201
- C. Not have been convicted of a felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes. § 20
- D. Not have served two terms in the State Senate since November 6, 1990. Cal. Const., art. IV, § 2(a)(1) & (4)

II. REQUIREMENTS

A. CAMPAIGN FILINGS AND RESPONSIBILITIES

Any individual who intends to be a candidate for an elective state office shall:

1. Candidate Intention Statement

File with the Secretary of State's Political Reform Division a Candidate Intention Statement (Form 501) for the specific state office sought. A separate Form 501 must be filed for each election, including re-election to the same office. This statement shall be signed under penalty of perjury and filed prior to the solicitation or receipt of any contribution or loan, including expenditures made from personal funds used for campaign purposes. Gov. Code § 85200

¹ All code section references are to the California Elections Code unless stated otherwise.

² Article IV, section 2(c), of the California Constitution requires a one-year residency in the legislative district and three years residency in California; however, it is the legal opinion of this office that these provisions violate the U.S. Constitution and are unenforceable.

2. Campaign Contribution Account

- a. A Statement of Organization—Recipient Committee (Form 410) shall be filed with the Secretary of State’s Political Reform Division within 10 days of qualifying as a committee by receiving contributions totaling \$1,000 or more in a calendar year. Gov. Code §§ 82013(a), 84101
- b. Establish one campaign contribution account at an office of a financial institution located in California after filing the Candidate Intention Statement. Gov. Code § 85201(a)
- c. All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account. Gov. Code § 85201(c)
- d. Any personal funds, which will be used to promote the election of the candidate, shall be deposited in the account prior to expenditure. Gov. Code § 85201(d)
- e. All campaign expenditures shall be made from the account. Gov. Code § 85201(e)

3. Exceptions

- a. Parts 1 and 2(c) and (d), above, do not apply to a candidate's payment of a filing fee and statement of qualifications fee from his or her personal funds. Gov. Code §§ 85200, 85201(f)
- b. Part 2, above, does not apply if the candidate does not receive contributions and makes campaign expenditures from personal funds of less than \$1,000 in a calendar year, excluding payment of the filing fee and statement of qualifications fee. Gov. Code § 85201(g)
- c. An individual who raises contributions from others for his or her campaign, but who raises or spends less than \$1,000 in a calendar year, shall establish a campaign contribution account but is not required to file a Statement of Organization or other statement of bank account information. Gov. Code § 85201(h)

B. FILING FEES

1. Full Payment of Filing Fee

Every candidate must pay a filing fee equal to 1% of the first year salary as of the first day on which a candidate may circulate petitions in-lieu of filing fees. Currently, the filing fee is \$905.26. The filing fee must be paid to the county elections official at the time the candidate obtains the nomination papers from the county elections official.

§§ 8103(a)(3), 8105

2. Signatures In-Lieu of Filing Fee

A candidate may choose to submit by **January 11, 2013**, a minimum of 3,000 valid signatures on petitions in-lieu of filing fees. §§ 8106(a)(2) & (b)(3), 10704(a)

- a. Petitions for in-lieu signatures may be obtained from the county elections official and circulated between **January 7, 2013**, and **January 11, 2013**. Sections of petitions for in-lieu signatures shall be filed with the county elections official of the county in which the signers reside. § 8106
- b. The candidate may submit signatures to cover all or any prorated portion of the filing fee. § 8106(b)(3)
- c. Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote. § 8106(b)(1)
- d. Each circulator of an in-lieu-filing-fee petition shall be a registered voter of the district in which the candidate is running. The circulator shall serve within the county in which he or she resides. § 8106(b)(4)³
- e. Within **4** days after receipt of the petition, the county elections official shall notify the candidate of any deficiency. The candidate shall then, on or before **January 15, 2013**, either submit a supplemental petition containing additional signatures or pay a pro rata portion of the filing fee to cover the deficiency. § 8106(b)(3)
- e. Signatures in lieu of the filing fee may be counted toward the nomination sponsor signature requirements. § 8106(d)

Signature In-Lieu of Filing Fee Requirements
§ 8106(a)(2)

<u>Candidates</u>	<u>Filing Fee</u>	<u>Signatures In-Lieu of Filing Fee</u>	<u>Value of Each Signature</u>
All Candidates (except write-in candidates)	\$905.26	3,000	\$0.301753

C. BALLOT DESIGNATIONS

Each candidate who submits a ballot designation shall file a completed ballot designation worksheet that supports the use of that ballot designation by the candidate. The ballot designation worksheet shall be filed with the elections official at the same time that the candidate files his or her declaration of candidacy. § 13107.3

³ The U.S. Supreme Court has struck down statutes that require petition circulators to be registered voters. (Buckley v. American Constitutional Law Foundation, Inc. (1999) 525 U.S. 182.) Other federal courts have struck down statutes that require petition circulators to reside within the state or locality affected by a petition, especially where requiring circulators to submit to jurisdiction by agreement would achieve the same end and would be more narrowly tailored to further the state's interest in preventing fraud. (See, e.g., Nader v. Brewer (9th Cir. 2008); Krislov v. Rednour (7th Cir. 2000) 226 F.3d 851; Lerman v. NYC Board of Elections (2d Cir. 2000) 232 F.3d 135; and Chandler v. Arvada (10th Cir. 2002) 292 F.3d 1236.) The Secretary of State is constitutionally constrained from declaring a state statute invalid, and Elections Code section 8106, subdivision (b), subsection (4) has not been declared unconstitutional by any state or federal court in California. However, given the similarities between this statute and the provisions struck down in the foregoing cases, the Secretary of State does not recommend or support the enforcement of this statute against any petition circulator, especially where the petition circulator agrees to submit to local jurisdiction.

D. STATEMENT OF ECONOMIC INTERESTS

Each candidate must file a Statement of Economic Interests with the county elections official disclosing investments, interests in real property, and any income received during the immediately preceding 12 months pursuant to the requirements of the Political Reform Act of 1974, As Amended. Gov. Code §§ 87200, 87201

This statement is to be filed by **January 18, 2013**. It is not required if the candidate has filed such statements within the past 60 days for the same jurisdiction.

Gov. Code § 87201

E. FOR ALL CANDIDATES (EXCEPT WRITE-IN CANDIDATES)

1. Between **January 9, 2013**, and **January 18, 2013**, obtain nomination documents from the county elections official of the candidate's county of residence.

Nomination documents include nomination papers for collecting signatures and a Declaration of Candidacy that must be executed by the candidate.

§§ 333, 8040, 8041, 10704(a);

January 7, 2013, was the Proclamation date

2. Nomination Papers

- a. Gather between 40 and 60 signatures for filing the nomination papers. § 8062(a)(2)
- b. Signatures on the in-lieu filing fee petitions may satisfy the signature requirement. § 8061
- c. Any candidate may obtain signatures to and sign his or her own nomination papers. § 106(a)
- d. All signers must be registered voters in the district or political subdivision in which the candidate is to be voted on. §§ 100, 8068
- e. The candidate may appoint persons to circulate the nomination papers. Circulators shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision. § 8066⁴

⁴ The U.S. Supreme Court has struck down statutes that require petition circulators to be registered voters. (Buckley v. American Constitutional Law Foundation, Inc. (1999) 525 U.S. 182.) Other federal courts have struck down statutes that require petition circulators to reside within the state or locality affected by a petition, especially where requiring circulators to submit to jurisdiction by agreement would achieve the same end and would be more narrowly tailored to further the state's interest in preventing fraud. (See, e.g., Nader v. Brewer (9th Cir. 2008); Krislov v. Rednour (7th Cir. 2000) 226 F.3d 851; Lerman v. NYC Board of Elections (2d Cir. 2000) 232 F.3d 135; and Chandler v. Arvada (10th Cir. 2002) 292 F.3d 1236.) The Secretary of State is constitutionally constrained from declaring a state statute invalid, and Elections Code section 8066 has not been declared unconstitutional by any state or federal court in California. However, given the similarities between this statute and the provisions struck down in the foregoing cases, the Secretary of State does not recommend or support the enforcement of this statute against any petition circulator, especially where the petition circulator agrees to submit to local jurisdiction.

- f. Between **January 9, 2013**, and **January 18, 2013**, each section of the nomination papers shall be delivered to the county elections official of the county in which the signer resides and is a voter. §§ 8063, 10704(a);
January 7, 2013, was the Proclamation date

3. Declaration of Candidacy

- a. The Declaration of Candidacy shall be obtained from, and delivered to, the elections official of the county in which the candidate resides and is a voter. §§ 8040, 8064
- b. Upon request of a candidate, the county elections official shall provide the candidate with a Declaration of Candidacy. The county elections official shall not require a candidate to sign, file, or sign and file a Declaration of Candidacy as a condition of receiving nomination papers. § 8020(d)
- c. The county elections official shall require all candidates filing a Declaration of Candidacy to execute the declaration in his or her office unless the candidate, in a written statement signed and dated by the candidate, designates a third party to obtain the declaration form from the county elections official and deliver it to the candidate. The written statement shall state that the candidate is aware that the Declaration of Candidacy must be properly executed and delivered not later than **January 18, 2013**, to the office of the county elections official from whom it was obtained. Any person may return the completed Declaration of Candidacy. §§ 8028, 10704

F. FOR WRITE-IN CANDIDATES ONLY AND ONLY FOR THE SPECIAL PRIMARY ELECTION⁵

1. Filing Fees

Write-in candidates are not required to pay filing fees. § 8604

2. Nomination Papers

- a. Gather between 40 and 60 signatures for filing the nomination papers. §§ 8062(a)(2), 8600
- b. The candidate may appoint persons to circulate the nomination papers. Circulators shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision. § 8066⁶
- c. Signers must be voters in the district or political subdivision in which the write-in candidate is to be voted on. § 8603

⁵ Write-in candidates can only run in the primary election. A write-in candidate from the primary election is eligible to run/have his or her name on the ballot in the general election if that candidate is one of the top two vote getters at the primary election, unless one candidate receives a majority of the votes (50% +1). (Elections Code §§ 8605, 10705.)

⁶ See footnote 4, above.

- d. Between **January 14, 2013**, and **February 26, 2013**, circulate nomination papers for signatures and leave them for examination with the county elections official of the county in which the signers reside. § 8601;
January 7, 2013, was the Proclamation date

3. Statement of Write-In Candidacy

- a. Between **January 14, 2013**, and **February 26, 2013**, file a Statement of Write-In Candidacy. § 8601;
January 7, 2013, was the Proclamation date
- b. The Statement of Write-In Candidacy shall contain the following information:
 - i. Candidate's name;
 - ii. Candidate's complete residence address;
 - iii. A declaration stating that the candidate is a write-in candidate;
 - iv. The name of the office for which the candidate is running;
 - v. The date of the election, and
 - vi. Candidate's 10-year political party preference history.
§§ 8600, 8601, 10704(a)

- 4. In order to be nominated at the special primary election, the write-in candidate must receive the highest number of votes cast for this office or the second highest number of votes cast for this office, unless there is a tie or a vacancy, or unless another candidate has been elected to the office by winning a majority of the votes.
§§ 8142, 8605, 10705

III. GENERAL INFORMATION

- A. Each of the forms mentioned above is available free of charge from the county elections official. § 8101
- B. The State Senate has a membership of 40 Senators elected for four-year terms. This election is for the remainder of the term. Cal. Const., art IV, § 2(a)(1)
- C. Because of the requirements of the Political Reform Act, As Amended, a candidate should visit the website of the Fair Political Practices Commission at www.fppc.ca.gov for the most recent copy of the Information Manual on Campaign Disclosure Provisions of the Political Reform Act, which gives the filing requirements for reporting campaign contributions, etc.

IMPORTANT NOTICE

This information sheet of candidate qualifications and procedures is for general information only and does not have the force and effect of law, regulation, or rule. In case of conflict, the law, regulation, or rule will apply. The candidate should obtain the most up-to-date information available because of possible changes in law.