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THIRD READING

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Bill No: SB 714  
Author: Caballero (D)  
Amended: 4/27/21  
Vote: 21

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SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 4/26/21  
AYES: Glazer, Hertzberg, Leyva, Newman  
NO VOTE RECORDED: Nielsen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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**SUBJECT:** Democratic Party: county central committees: appointment and election

**SOURCE:** California Democratic Party's Chicano Latino Caucus

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**DIGEST:** This bill allows a person to be eligible for appointment or election to a county central committee for the Democratic Party of California (Democratic Party) if the person has a recognized affiliation, as defined by the party.

**ANALYSIS:**

Existing law:

- 1) Requires the Legislature, pursuant to the California Constitution, to provide for partisan elections for political party central committees.
- 2) Provides for the organization, operation, and functions of the Democratic Party.
- 3) Permits a Democratic Party county central committee to elect its members at every presidential primary election, as specified.
- 4) Provides that a person is not eligible for appointment or election to a Democratic Party county central committee who is not registered as affiliated with the Democratic Party at the time of the person's appointment or election.

- 5) Requires that, in each county, the name of each candidate for member of a Democratic Party county central committee appear on the ballot only upon the filing of nomination papers, as specified.
- 6) Prohibits a declaration of candidacy for membership on a county central committee of a political party from being filed by a candidate unless both of the following are true:
  - a) At the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as the candidate has been eligible to register to vote in California, the candidate is shown by their affidavit of registration to be affiliated with that political party.
  - b) The candidate has not been registered as affiliated with any other qualified political party within 12 months.
- 7) Requires an elections official to attach a certificate to the declaration of candidacy showing the date on which the candidate registered with a preference for the political party of a county central committee, and indicate that the candidate has not been registered with a political party preference for any other qualified political party, as specified.
- 8) Permits a county central committee of a political party, notwithstanding the provisions described in 6) and subject to the bylaws of the state central committee, to establish the length of time that a candidate for membership on that committee must be shown by the candidate's affidavit of registration to be affiliated with the political party of that committee, and may establish the length of time that a candidate for membership on that committee must not have been registered as affiliated with a qualified political party other than the political party of that committee.
- 9) Permits, notwithstanding any other provision of law, a Democratic Party county central committee to select its members at any time by holding a caucus or convention, or by using any other method of selection approved by the committee, as specified.

This bill:

- 1) Provides that a person is not eligible for appointment or election to a Democratic Party county central committee who does not have recognized affiliation, as defined by this party, at the time of the person's appointment or election.

- 2) Requires the party to provide information regarding eligibility requirements to the appropriate elections officials.
- 3) Requires elections officials to provide a certificate attached to the declaration of candidacy that certifies the eligibility of a person seeking election to a Democratic Party county central committee if the person is unable to register to vote and express a party preference and satisfies the eligibility requirements in 1), as specified. Requires the certificate to state that the candidate meets the specified eligibility requirements.

## Background

*Internal Governance of Political Parties.* In *Eu v. San Francisco County Democratic Central Committee* (1989), 489 U.S. 214, the United States Supreme Court examined the right of a state to impose laws relating to the internal affairs of political parties. The Court found that laws burdening the associational rights of political parties and their members must serve a compelling state interest. Since a state has a compelling interest in preserving the integrity of its election process, it may enact laws that interfere with a political party's internal affairs when necessary to ensure that elections are fair and honest. However, a state cannot justify regulating a party's internal affairs without showing that such regulation is necessary to ensure an election that is fair and orderly.

In *Eu*, the Court reiterated that a political party's determination of the structure which best allows it to pursue its political goals is protected by the United States Constitution (*Tashjian v. Republican Party of Connecticut* (1986), 479 U.S. 208 at 224). The Court also held that freedom of association also encompasses a political party's decisions about the identity of, and the process for electing, its leaders. In other words, unless the state can show that the particular internal party structure would interfere with the integrity of the electoral process or some other compelling state interest, the political parties have a constitutional right to be free from state regulations in the matter of their internal affairs.

In 2009, the California Court of Appeals for the Second District reaffirmed the Supreme Court's holding in *Eu* in the case of *Wilson v. San Luis Obispo County Democratic Central Committee* (2009) 175 Cal. App. 4th 489. The *Wilson* case dealt with a situation where the San Luis Obispo County Democratic Central Committee had adopted bylaws regarding the removal of central committee members and the membership of the central committee that were in conflict with provisions of the Elections Code. The court in *Wilson* ruled in favor of the San Luis Obispo County Democratic Central Committee, finding that it had the right to adopt those conflicting bylaws pursuant to *Eu*.

It should also be noted, the Legislature has changed provisions of the Elections Code at the request of political parties to reflect those parties' desired methods of electing members to party central committees, and has generally removed unnecessary provisions that may interfere with the internal structure of political parties.

*Appointment and/or Election to a Central Committee.* Current state law provides that a person is not eligible to be appointed or elected to a county central committee of the Democratic Party of California if the person is not registered as affiliated with the Democratic Party at the time of the person's appointment. In order to be registered as affiliated with the Democratic Party, a person must be eligible to register to vote.

While the action of appointing that person to the county central committee appears to be prohibited by existing state law, the bylaws of the San Francisco Democratic Central Committee permit a person who is ineligible to vote to serve on the committee if the person "has declared [their] intention to register as a Democrat upon becoming eligible to register as a voter." However, in light of *Eu* and related case law, it could be argued that a state law requiring a person to be registered to vote with the Democratic Party in order to be *appointed* to a Democratic Party county central committee is unconstitutional or otherwise unenforceable where the county central committee wishes to permit individuals who are not eligible to register to vote to serve on the committee.

For elected positions of a Democratic Party county central committee, current law requires a person to be registered with the Democratic Party. County central committees typically choose to have their elections conducted by county elections officials and the Elections Code provides statutory eligibility requirements for being elected to a county central committee. This provides county elections officials with guidance in determining the eligibility of a person seeking an elected position on a county central committee.

This bill removes the statutory requirement that a person must be affiliated with the Democratic Party in order to be appointed or elected to the party's county central committee and would delegate that authority to the entity defining "recognized affiliation."

*Federal Campaign Law.* Some of the main purposes and activities of political party county central committees is to promote voter registration with the political party, elect endorsed candidates, and promote the party's values and platform. Membership on a county central committee often involves participation in various

electoral activities. Depending on the type of electoral activity or involvement by a person who is not a United States citizen and who is not lawfully admitted for permanent residence in the country, the person could be subject to federal legal liability.

For example, according to the Federal Election Commission, federal law prohibits campaigns from soliciting or accepting contributions from foreign nationals. The term “foreign national” is defined to include any individual who is not a United States citizen and not lawfully admitted for permanent residence. Federal law prohibits contributions, donations, and expenditures as well as disbursements solicited, directed, received, or made directly or indirectly by or from foreign nationals in connection with any election — federal, state, or local. This prohibition includes contributions or donations made to political committees.

## Comments

- 1) According to the author, California has been a leader in championing immigrant rights and in the past has recognized that immigrants are the essence of what makes us the Golden State. However, there is still work to be done to fully integrate immigrants into our democratic system to achieve full civic participation. An existing barrier to meaningful inclusion is the inability of immigrant leaders to serve as delegates in county central committees. Democracy depends on everyone, and it is strengthened when there is diverse and meaningful inclusion of all communities. It is important that immigrant leaders such as DREAMers can have a seat at the table and be allowed to serve in leadership positions that shape their communities. SB 714 ensures all Democrats have an opportunity to be elected as a delegate regardless of their nation of origin.
- 2) *Who Defines?* While this bill requires the party to define “recognized affiliation,” the author should clarify what entity of the Democratic Party of California actually defines the phrase. This could be either the Democratic Party of California or each county’s Democratic Party central committee. It should be noted that there are differences between the state party and county central committees as well as potential jurisdictional issues. Having the state party define “recognized affiliation” provides uniformity throughout California, but could potentially be a definition that some counties may not agree with. Alternatively, if each county central committee were to define “recognized affiliation,” then variations of the definition are likely and could create confusion if someone were to move from one county to another county.

- 3) *Eligibility to Vote in Central Committee Elections.* While this bill may allow people who are not United States citizens to be candidates for Democratic Party county central committees, there is nothing in this bill that permits a person who is not a United States citizen to vote in such elections. This also applies to someone who is otherwise ineligible to register to vote and vote. Changes to voting eligibility for Democratic Party county central committee elections may present additional policy considerations and other logistical challenges when conducting an election. A similar scenario also exists for gathering signatures for nomination to a county central committee.
- 4) *Providing Information.* Depending on how the party chooses to define “recognized affiliation,” some kind of education campaign may be needed, especially if noncitizens are permitted to be appointed or elected to a county central committee. As mentioned previously, federal law prohibits campaigns from soliciting or accepting contributions from foreign nationals and “foreign national” is defined to include any individual who is not a United States citizen or not lawfully admitted for permanent residence. This could be a challenge for a person who is appointed or elected to a county central committee because one of the main aspects of a central committee is raising contributions, endorsing candidates, and working to get those endorsed candidates elected. Having some kind of information provided to individuals seeking a position on a county central committee would be beneficial to help avoid any potential mishaps that may occur, especially if the person is unable to register to vote.

### **Related/Prior Legislation**

SB 288 (Wiener, Chapter 200, Statutes of 2020), pursuant to a 2019 version of the bill, would have allowed a person who is not a United States citizen to serve on a Democratic Party county central committee, notwithstanding the fact that the person is not registered to vote as a Democrat. SB 288 passed the Assembly Elections and Redistricting Committee, but was amended for another purpose (California Environmental Quality Act: exemptions: transportation-related projects) prior to final passage.

SB 1272 (Kehoe, Chapter 507, Statutes of 2012), among other changes, deleted the requirement that central committee members be elected at every statewide direct primary election and permitted those members to be elected at every presidential primary election.

AB 1200 (Ma, Chapter 8, Statutes of 2012) changed the manner in which Republican county central committee members are elected in the City and County of San Francisco, and the manner in which Democratic Party county central

committee members are elected in Alameda and Sacramento counties and the City and County of San Francisco, among other provisions.

AB 1396 (Torres, Chapter 392, Statutes of 2009) repealed various provisions of the Elections Code governing the membership and operations of the state central committee of the Democratic Party of California, and instead required that the standing rules and bylaws of the Party govern the membership and operations of the state central committee.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

**SUPPORT:** (Verified 5/18/21)

California Democratic Party's Chicano Latino Caucus (source)  
Harvey Milk LGBTQ Democratic Club  
La Raza Community Resource Center  
Napa County Latinx Democratic Club  
Salinas League of United Latin Americans Council #2055  
San Diego Border Dreamers  
San Francisco Commissions for All  
San Francisco Democratic County Central Committee  
San Francisco Latinx Democratic Club  
San Francisco Latinx Young Democrats  
5 individuals

**OPPOSITION:** (Verified 5/18/21)

None received

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106  
5/19/21 14:52:55

\*\*\*\* END \*\*\*\*