

**RCW 29a.60.021**  
**Write-in voting — Declaration of candidacy —**  
**Counting of vote.**

(1) For any office at any election or primary, any voter may write in on the ballot the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29A.24.311 and such vote shall be counted the same as if the name had been printed on the ballot and marked by the voter. No write-in vote made for any person who has not filed a declaration of candidacy pursuant to RCW 29A.24.311 is valid if that person filed for the same office, either as a regular candidate or a write-in candidate, at the preceding primary. Any abbreviation used to designate office or position will be accepted if the canvassing board can determine, to its satisfaction, the voter's intent.

(2) The number of write-in votes cast for each office must be recorded and reported with the canvass for the election.

(3) A write-in vote for an individual candidate for an office whose name appears on the ballot for that same office is a valid vote for that candidate as long as the candidate's name is clearly discernible, even if other requirements of RCW 29A.24.311 are not satisfied and even if the voter also marked a vote for that candidate such as to register an overvote. These votes need not be tabulated unless: (a) The difference between the number of votes cast for the candidate apparently qualified to appear on the general election ballot or elected and the candidate receiving the next highest number of votes is less than the sum of the total number of write-in votes cast for the office plus the overvotes and undervotes recorded by the vote tabulating system; or (b) a manual recount is conducted for that office.

(4) Write-in votes cast for an individual candidate for an office whose name does not appear on the ballot need not be tallied unless the total number of write-in votes and undervotes recorded by the vote tabulation system for the office is greater than the number of votes cast for the candidate apparently qualified to appear on the general election ballot or elected.

(5) In the case of write-in votes for a statewide office or any office whose jurisdiction encompasses more than one county, write-in votes for an individual candidate must be tallied when the county auditor is notified by either the secretary of state or another county auditor in the multicounty jurisdiction that it appears that the write-in votes must be tabulated under the terms of this section. In all other cases, the county auditor determines when write-in votes must be tabulated. Any abstract of votes must be modified to reflect the tabulation and certified by the canvassing board. Tabulation of write-in votes may be performed simultaneously with a recount.

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# The Mercury News

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## Retailers push sponsored bill to avoid environmental law

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A bill that would exempt major retailers from a portion of California's landmark environmental protection law is speeding through the Legislature in the final hours of its 2009-10 session, circumventing normal public review.

Assembly Bill 1581, which would waive environmental review when a retailer is moving into an existing building, is buried in a crowded docket of bills headed for votes today, the final day for legislation to be passed and sent to the governor. The bill represents the latest example of how special interests have managed to hijack the legislative process, a pattern exposed in Mercury News articles last month.

The newspaper reported that in the last session of the Legislature, bills written by outside interests -- known in legislative parlance as "sponsors" -- made up 39 percent of all bills introduced. Bills sponsored by private interests -- such as the California Retailers Association, which sponsored AB 1581 -- were more than twice as likely to become law than those with no sponsor.

Assemblyman Jared Huffman, D-Marin, said in an interview Monday that the retailers' bill is a major

attack on the California Environmental Quality Act: "With this absurd bill, the message it sends is that CEQA is now for sale, that anyone who can afford to hire a team of lobbyists and grease the wheels in the Legislature can have their own special exception to our most important environmental law."

Just one year ago, the Legislature

passed a bill to exempt a potential football stadium in the City of Industry from CEQA, the first legislation to do so, despite warnings from opponents that the state was setting a dangerous precedent that would open the door to eviscerating the law's environmental safeguards.

The latest bill, introduced by Assemblywoman Norma Torres, D-Ontario, would permit retailers moving into empty space of up to 120,000 square feet to avoid the public review process under CEQA, which requires consideration of the traffic, noise and other environmental impacts of a project. The bill provides no room for legal challenges, and the costs to ease any impacts would fall on taxpayers, not the developer.

"We are worsening an already slippery slope created with last year's stadium exemption," said Huffman, the former chairman of the Assembly's committee on natural resources.

Supporters contend that the bill is a necessary tool to give the economy a jolt. The bill took its current form only last week, the last day for bills to be amended, state records show. Until then, AB 1581 was focused on helping promote recycling and had no outside sponsor listed.

But on Aug. 20, using a process known in the Legislature as "gut and amend," the bill changed and a sponsor appeared: the California Retailers

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Association, an influential trade group representing retailers that operate more than 9,000 stores and generate more than \$100 billion annually in the state.

Inside the halls of the Capitol it has been dubbed "The Walmart Bill." The lobbyist working AB 1581, Bob Giroux, represents Walmart, which has spent \$246,750 since last year on his firm, Lang, Hansen, O'Malley & Miller. Garrick Brown, a retail industry analyst with Colliers International, said the bill's parameters fit perfectly with Walmart's most recent expansion efforts. Notably, the maximum size for stores that are exempted from review -- 120,000 square feet -- is precisely Walmart's typical footprint.

"Their big emphasis now has been to shift from ground-up development to leasing existing vacant space," Brown said. Such space tends to be cheaper and often a better fit for the most profitable segment of its product line: groceries.

The California bill "would be huge for them," Brown said.

A Walmart spokesperson said in an e-mail: "As a member of the CA Retailers Association, we are supportive of their work on a number of issues that help boost local economies and create jobs, including this one."

By making such a late amendment, the bill's sponsor avoided the normal scrutiny that comes from extensive committee reviews and repeated readings in both houses of the Legislature in the course of normal bill passage.

Bill Dombrowski, the association's president, said the bill is not a sneak attack. His group has spent the past year trying to ease state environmental law

to get vacant retail space occupied. He added that talks with a sympathetic Assembly speaker, John Pérez, led to the last-minute bill.

Dombrowski described the bill "as good public policy," adding, "we need to do something to get this economy going," and he said comparisons with the NFL stadium bill are unfair. The Torres bill, if passed, would require new exempted tenants to increase energy efficiency and reduce water consumption.

Incoming businesses would have to comply with local land use and zoning laws. And the bill would sunset by the end of 2013, a key element for bill supporter Sen. Joe Simitian, D-Palo Alto, who has vigorously opposed bending CEQA rules in the past.

"The three-year sunset was critical," said Simitian, who holds a master's degree in city planning. "But there are no adverse impacts to the environment from this bill."

But opponents are outraged by the bill. For a full year, the Legislature rejected attempts by the governor and Republican legislators to expand CEQA exemptions in the wake of the NFL stadium bill.

And the legislative staffer for the Senate Environmental Quality Committee who analyzed the bill's latest language raised numerous red flags. Among them, he said the bill could stick local taxpayers with the expense of cleaning up the environmental damage of new projects, given that the developer would be exempt from many mitigation requirements and free from lawsuit threats.

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**WAC 434-215-120**Agency filings affecting this section**Political party preference by candidate for partisan office.**

(1) On a declaration of candidacy, a candidate for partisan congressional, state, or county office may state his or her preference for a political party, or not state a preference. The candidate may use up to sixteen characters for the name of the political party. A candidate's party preference, or the fact that the candidate states no preference, must be printed with the candidate's name on the ballot and in any voters' pamphlets printed by the office of the secretary of state or a county auditor's office.

(2) If a candidate does not indicate a party that he or she prefers, then the candidate has stated no party preference and is listed as such on the ballot and in any voters' pamphlets.

(3) The filing officer may not print on the ballots, in a voters' pamphlet, or other election materials a political party name that is obscene. If the name of the political party provided by the candidate would be considered obscene, the filing officer may petition the superior court pursuant to RCW 29A.68.011 for a judicial determination that the party name be edited to remove the obscenity, or rejected and replaced with "states no party preference."

(4) A candidate's preference may not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate. If the name of the political party provided by the candidate implies that the candidate is nominated or endorsed by a political party, or that a political party approves of or associates with that candidate, the filing officer may petition the superior court pursuant to RCW 29A.68.011 for a judicial determination that the party name be edited, or rejected and replaced with "states no party preference."

[Statutory Authority: RCW 29A.04.611, 08-16-052, § 434-215-120, filed 7/11/08, effective 8/11/08.]

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## Q&A

### Why do we need an open primary?

Extreme partisanship has created political gridlock in California. Every year, the Legislature fails to adopt a budget on time. Too many elected officials put partisan doctrine ahead of what's best for California. Prop 14, coupled with redistricting *reform* approved by voters in 2008, will make the Legislature less polarized by bringing more pragmatic leaders to Sacramento who are more interested in finding solutions than in maintaining rigid partisan dogma. Electing the best candidates no matter which party they prefer will increase competition and reduce the influence of special interests.

This initiative would reform an existing system that limits the ability of Decline to State (DTS) and independent voters to vote in primary elections. In fact, many independent voters don't even participate in primary elections because they don't think their votes count. Political parties don't often let those independent voters participate in their primaries, where most elections are decided. Independents are the fastest growing voter group in California. According to the nonpartisan Public Policy Institute of California, nearly 20 percent of California voters – more than 3 million – are DTS or independents. The Top-Two Candidates Open Primary also will better reflect California's changing electorate. Likely voters under the age of 35 are less inclined to join the traditional parties than previous generations.

### How would Prop 14 work?

The measure would institute for congressional, statewide and legislative elections a system similar to the one currently used in local elections for school boards, city councils and county supervisors. All candidates names would appear on the same primary ballot – Republicans, Democrats, DTS and independents. All voters would be eligible to vote in the primary, regardless of party preference. The two candidates receiving the most votes in the primary, no matter what their party, would face off in the general election.

### How is the Top-Two Open Primary different from nonpartisan local elections?

This initiative would create a run-off in a general election between the two candidates with the highest vote totals in the primary, regardless of the percentage of the vote they receive. In local elections, candidates who win a majority of votes in a primary (50% + 1) are elected outright. Also, candidates can tell voters which party they prefer under Prop 14.

### Didn't the courts reject an open primary plan approved by California's voters?

Proposition 198, an open primary Initiative in 1996, was approved by 59.5% of California voters. Passed in all 58 California counties, it was used in the 1998 and 2000 primaries. Prop 198 subsequently was overturned by the U.S Supreme Court (California Democratic Party v. Jones), which said it violated the Republican and Democratic parties' freedom of association. Prop 14 is different from Prop 198 in important ways, to preserve its constitutionality.

### Why would Prop 14 be legal?

Legal experts have modeled this Top-Two Open Primary initiative after Washington state's primary system. Under this law, the *voters decide* the candidates for the general election, not the parties. That system was ruled constitutional by the U.S. Supreme Court in Washington State Grange v. Washington State Republican Party.

### Haven't voters rejected other open primary initiatives?

Two competing primary measures appeared on the November 2004 ballot. Proposition 62, an initiative measure which would have restored the open primary system, included modifications designed to ensure its constitutionality. The Legislature responded by placing Proposition 60 on the ballot to protect the current partisan primary system with the backing of both major political parties. Voter confusion led to victory by the partisan interests behind Proposition 60, while Proposition 62 went down in defeat.

This time around there will be no confusion. A September 2009 statewide survey by the Public Policy Institute of California found that 70% of California voters support a move to an open primary system in California. Support for the Top-Two Open Primary

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initiative extends across party lines with 71% of Democrats, 68% of Republicans and 69% of Independents in support of the *reform*.

#### How will Prop 14 affect women and minorities?

It will improve chances that the Legislature will more accurately reflect all of California. Before Proposition 198, the Legislature included 27 women and 27 ethnic minority representatives. After two election cycles in 2001 – before Proposition 198 was overturned by the U.S. Supreme Court – representation of women had grown to 34 and minorities to 35, more than a 25% increase.

#### Will the political parties play any role in this system?

Yes. Although primaries will no longer be used to choose the parties' official nominees, candidates will still be able to declare their party preference which will appear next to their name on the primary and general election ballots. Candidates who do not declare a party preference shall have the designation of "No Party Preference." Political parties will continue to be able to endorse candidates and give financial and organizational support to the candidates of their *choice*. This initiative does nothing to change the current partisan primary elections for President and party committee offices, nor does it modify local nonpartisan elections.

#### Will this initiative take away my right to register as a Republican or Democrat?

You will still be able to declare your party preference if you choose. The measure does not significantly alter the way voters are registered. Californians can vote for the candidate of their *choice* in either a primary or a general election regardless of their disclosure or nondisclosure of party preference.

#### How will the Top-Two Candidates Open Primary affect third-party candidates?

It's almost impossible for third party candidates to win legislative, congressional and statewide elections today because they don't have access to enough votes in partisan primaries, where most elections are decided today. Only one third-party candidate has served in the Legislature in modern California history. Prop 14 will level the playing field for third parties. For example, a run-off in a general election could conceivably pit a Democrat against a Green Party candidate in San Francisco or a Republican and Libertarian candidate against each other in Orange County.

#### Do the major political parties have a position on an open primary?

The Democratic and Republican Party leaders have said they plan to finance an expensive opposition campaign in June 2010, just as they have fiercely opposed an open primary in the past. They worry that Prop 14 will diminish their ability to control the outcome of elections.