

ASSEMBLY THIRD READING

AB 2369 (Hagman)

As Amended May 23, 2014

Majority vote

ELECTIONS

4-1

---

Ayes: Donnelly, Bonta, Hall, Perea

Nays: Fong

SUMMARY: Restricts who can pay for a recount. Specifically, this bill requires a voter, or a candidate-controlled campaign committee or primarily formed committee, as defined by current law, represented by a voter, that files a request seeking a recount to deposit money to pay for the recount from the voter's own personal funds, or funds of the candidate-controlled campaign committee of the candidate or of the primarily formed committee on whose behalf the recount is being requested.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: According to the author, "While current law requires the voter requesting the recount to deposit the funds required, the law is unclear from where those funds are allowed to come. AB 2369 clarifies existing law by explicitly stating that funds for the recount have to be provided by the voter's personal funds or funds from the voter's controlled campaign committee. This bill won't stop outside sources from being able to contribute [to] a recount effort, but ensures transparency and accountability within the recount process, as voters can easily track campaign contributions. However, AB 2369 will prevent direct 3rd party contributions towards an election recount. It is vital that we provide clarity under current law to bring transparency to election recounts. Voters deserve to know not only who requests a recount, but also how it is being funded."

The practical effect of this bill is that a recount can only be requested if it is paid for by a voter who uses his or her own personal funds, a candidate who uses his or her candidate campaign committee funds, or a primarily formed committee that uses campaign committee funds. This bill excludes other entities, such as a local political party or a passionate advocacy organization interested and invested in the outcome of the election or a particular candidate or ballot measure, from being able to request a recount because the bill does not permit these entities to directly pay for the recount.

It is possible that entities other than a candidate's campaign committee or primarily formed committee, such as a ballot measure committee, may be interested and invested in pursuing a recount to hopefully change the outcome of an election. One of the only ways in which another entity could plausibly request and pay for a recount would be if a candidate had a desire to request a recount and agreed to pay for it using funds from the candidate-controlled campaign committee and the outside entity contributed to the candidate's controlled campaign committee to pay for the recount. The only other plausible alternative available to an outside entity would be if the entity was able to convince an individual voter to request a recount on his or her behalf and then paid for it with his or her own personal funds.

According to the author's statement, while this bill will not stop outside sources from being able to contribute to a recount effort, it will however, ensure transparency and accountability within the recount process and provide clarity in the law as to who is able to pay for the cost of a recount and reveal how a recount is being funded. While the author's goal is laudable, this bill may not truly reveal where those funds are coming from. A business or organization could contribute money to the person requesting the recount and the voter requesting the recount can then submit cash, a cashier's check, or a money order to cover the costs of the recount. So, while it may seem as though the recount is being paid by the personal funds of the voter, it is not entirely certain that is the case.

Furthermore, if a candidate or a ballot measure committee pays for a recount, it is already required it to be disclosed and reported under the Political Reform Act (PRA). Additionally, if a recount is paid for by third party in coordination with or at the request of a candidate or a ballot measure committee it is already considered a reportable in-kind contribution under the PRA. Consequently, it is unclear how this bill will result in more transparency when current law already provides for disclosure.

Please see the policy committee analysis for further discussion on this bill.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094

FN: 0003521