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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** AB 894                      **Hearing Date:** July 11, 2017  
**Author:** Frazier  
**Version:** May 16, 2017  
**Urgency:** No                                      **Fiscal:** No  
**Consultant:** MK

**Subject:** *Candidates' Statements: False Statements*

### HISTORY

Source: Author

Prior Legislation: None

Support: Unknown

Opposition: American Civil Liberties Union

Assembly Floor Vote: 76 - 0

### PURPOSE

*The purpose of this bill is to increase the penalty for knowingly make a false statement with the intent to mislead voters in connection with a campaign for office from \$1,000 to \$10,000.*

*Existing law* provides for an additional "state penalty" of \$10 for every \$10 or fraction thereof, upon every fine, penalty or forfeiture imposed and collected by the courts for criminal offenses including all offenses, except parking offenses, involving the Vehicle Code. Of the money collected, 70 percent is transmitted to the state and 30 percent remains with the county. The state portion of the money collected from the penalty is distributed in specified percentages among: the Fish and Game Preservation Fund (0.33 percent); the Restitution Fund (32.02 percent); the Peace Officers Training Fund (23.99 percent); the Driver Training Penalty Assessment Fund (25.70 percent); the Corrections Training Fund (7.88 percent); the Local Public Prosecutors and Public Defenders Fund (0.78 percent, not to exceed \$850,000 per year); the Victim-Witness Assistance Fund (8.64 percent); and the Traumatic Brain Injury Fund (0.66 percent). (Penal Code § 1464.)

*Existing law* provides for an additional county penalty assessment of \$7 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code except parking offenses. The money collected shall be placed in any of the following funds if established by a County Board of Supervisors: Courthouse Construction Fund; a Criminal Justice Facilities Construction Fund; Automated Fingerprint Identification Fund; Emergency Medical Services Fund; DNA Identification Fund. (Government Code § 76000 *et seq.*)

*Existing law*, as a part of the 2002-03 Budget Act, the Legislature imposed what was to be a temporary state surcharge of 20 percent on every base fine collected by the court. All money collected shall be deposited in the General Fund. This section was made permanent in the 2007 Budget. (Penal Code § 1465.7.)

*Existing law* established the "State Court Facilities Construction Fund" and added a state court construction penalty assessment in an amount up to \$5 for every \$10 or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses. The variation in the amount is dependant on the amount collected by the county for deposit into the local Courthouse Construction Fund established pursuant to Government Code Section 76100. As a result, the penalty assessment ranges from \$0.00 for every \$10 in two counties to the full \$5 for every \$10 in nine counties. This provision took effect on January 1, 2003. (Government Code § 70372.)

*Existing law*, established by Prop 69, Nov. 2004, levies a \$1 penalty assessment on every \$10 in fines and forfeitures resulting from criminal and traffic offenses and dedicates these revenues to state and local governments for DNA databank implementation purposes - the state will receive 70% of these funds in the first two years, 50% in the third year and 25% annually thereafter. The remainder will go to local governments. (Government Code § 76104.6)

*Existing law* provides that in addition to the amount in Government Code Section 76104.6, there shall be an additional state-only penalty of \$4 for every \$10 on every fine penalty or forfeiture imposed by the courts for all criminal offenses, including all offences involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. (Government Code 76104.7)

*Existing law* creates an additional penalty assessment of \$2 on every \$10 to support emergency medical services. (Government Code § 76000.5)

*Existing law* provides for an additional \$4 on every Vehicle Code violation or local ordinance for the Emergency Medical Air Transportation Act Fund. (Government Code § 76000.10)

*Existing law* provides for a flat fee of \$40 on every conviction for a criminal offense to ensure adequate funding for court security. (Penal Code § 1465.8.)

*Existing law* imposes a \$35 court facilities assessment on every conviction for a criminal offense including a traffic offense, excluding parking offenses, and on any local ordinance adopted pursuant to the Vehicle Code. (Government Code § 70373)

*Existing law* provides that if a court conducts night or weekend sessions then it may impose \$1 to every fine, forfeiture and traffic violator school fee imposed. (Vehicle Code § 42006)

*Existing law* provides that a court that uses a traffic assistance program may charge a traffic violator fee for any traffic infraction. (Vehicle Code § 11205.2)

*Existing law* provides that if a person is convicted of a misdemeanor they shall pay \$150 in restitution in addition to any fines, forfeitures etc. (Penal Code §1202.4)

*Existing law* provides that if a person is convicted of any violation of the Fish and Game Code they shall pay an additional penalty of \$15 that shall be deposited in the Fish and Game Preservation Fund. (Fish and Game Code § 12021)

*Existing law* provides that any candidate in an election or incumbent in a recall election who knowingly makes a false statement of a material fact in a candidate's statement, prepared pursuant to Section 11327 or 13307, with the intent to mislead the voters in connection with his or her campaign for nomination or election to a nonpartisan office is punishable by a fine not to exceed \$1,000 (approximately \$4,100 with penalty assessments) (Elections Code § 18351)

*This bill* increases the penalty to \$10,000, (approximately \$41,000 with penalty assessments)

## COMMENTS

### 1. Need for This Bill

According to the author:

Current law does not contain a strong enough deterrent to intentional misrepresentation on a candidate statement.

In August of 2015, the Contra Costa District Attorney filed a suit in court, *The People of the State of California vs. Jeffrey Belle*, against a candidate for the Contra Costa Board of Education for knowingly making a false statement of fact in a candidate statement with the intent to mislead voters. In this particular case the candidate falsified his education credentials, his residence, and his criminal record. Instead of a punishment, he received only entry into a diversion program for offenders, despite the injustice perpetrated upon the voters. Anecdotal evidence suggests that this remains a problem in other jurisdictions.

Current law provides various guidelines for which a candidate for elected public office must abide by when forming their candidate ballot statement or designation. Violation of these guidelines currently only constitutes a misdemeanor offense.

If a candidate in an election intentionally falsifies information on their ballot statement with the intent to mislead voters, the candidate may be punished by a fine not to exceed \$1,000 under current law.

If the \$1,000 fine, adopted in 1993, were adjusted for inflation alone, it would rise to almost \$2,500. Many other elections crimes already carry higher penalties. The level of deterrence is simply not appropriate in these rare cases where a candidate intentionally misleads the voters.

### 2. Increase of Penalty

This bill increases the penalty for knowing making a false statement of material fact in the candidate's statement with the intent to mislead the voters in connection with his or her

campaign for nomination or election to office from \$1,000 (approximately \$4,100 with penalty assessments) to \$10,000 (approximately \$41,000 with penalty assessments).

### **3. Penalty Assessments**

Until the budget year 2002-2003, there was 170% in penalty assessments applied to every fine. Starting with the 2002-2003 a number of penalty assessments were added to raise funds for various purposes. By 2008 the penalty assessments rose to 270%. The current penalty assessments are approximately 310% with an additional \$79 in flat fees.

Thus, when the \$1,000 fine adopted by this statute was added in 1993 the actual fine imposed was \$2,700. Today that same fine would be \$4,100. Should this fine be increased to \$10,000 which would be over \$40,000 with penalty assessments?

**-- END --**