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AB-759 Elections: county officers. (2021-2022)

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Assembly Bill No. 759

CHAPTER 743

An act to repeal and add Section 1300 of the Elections Code, and to amend Section 24200 of the Government Code, relating to elections.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 759, McCarty. Elections: county officers.

The California Constitution requires the Legislature to provide for an elected county sheriff, elected district attorney, and elected assessor in each county. Existing law also provides that the county treasurer, clerk, auditor, tax collector, recorder, public administrator, and coroner are elective offices unless a county makes them appointive offices, as specified. Existing law generally requires the election to select county officers to be held with the statewide primary election at which candidates for Governor are nominated, but if no candidate for a county office receives a majority of the votes cast for that office at the primary election, the 2 candidates who received the most votes advance to the statewide general election at which the Governor is elected.

This bill would require the election to select district attorney and sheriff to be held with the presidential primary and would require, if no candidate receives a majority of the votes cast for the office at the presidential primary, the 2 candidates who received the most votes to advance to a general election held with the presidential general election. The bill would provide for a 6-year term for a district attorney or sheriff elected in 2022. The bill would authorize a county board of supervisors to adopt an ordinance to also hold the election for other county officers with the presidential primary. To the extent changing the date for election of district attorney and sheriff would impose additional duties on local elections officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1300 of the Elections Code is repealed.

SEC. 2. Section 1300 is added to the Elections Code, to read:

1300. (a) (1) An election to select a district attorney and sheriff shall be held with the presidential primary.

(2) If the district attorney or sheriff is not elected pursuant to Sections 8140 and 8141, the election described in paragraph (1) shall be deemed a primary election and a county general election shall be held with the presidential general election to select the district attorney or sheriff.

(b) (1) Except as provided in paragraph (2) and as otherwise provided in the Government Code, an election to select county officers other than district attorney and sheriff shall be held with the statewide primary at which candidates for Governor are nominated.

(2) Notwithstanding paragraph (1), and except as otherwise provided in the Government Code, a county board of supervisors may adopt an ordinance to hold an election to select any county officer other than a county superintendent of schools with the presidential primary.

(3) If a county officer described in this subdivision is not elected pursuant to Sections 8140 and 8141, the election held pursuant to paragraph (1) or (2) shall be deemed a primary election and a county general election for the office shall be held with the following statewide general election.

(c) Notwithstanding subdivision (b) of Section 1003 or any other law, the requirement that the district attorney and sheriff be elected in presidential election years applies to both general law and charter counties, except those charter counties that, on or before January 1, 2021, expressly specified in their charter when an election for district attorney or sheriff would occur.

(d) A district attorney or sheriff elected in 2022 shall serve a six-year term and the next election for that office shall occur at the 2028 presidential primary.

SEC. 3. Section 24200 of the Government Code is amended to read:

24200. Except as otherwise provided, all elective county officers shall be elected at the election specified pursuant to Section 1300 of the Elections Code and take office at 12 o'clock noon on the first Monday after the January 1 succeeding their election.

SEC. 4. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.