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AB-1495 Vacancy elections. (2021-2022)

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Date Published: 09/28/2021 10:00 AM

Assembly Bill No. 1495

CHAPTER 316

An act to amend Sections 10720, 13109.7, and 13109.9 of, and to add Section 13109.10 to, the Elections Code, relating to elections.

[Approved by Governor September 27, 2021. Filed with Secretary of State September 27, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1495, Luz Rivas. Vacancy elections.

(1) Existing law establishes procedures for filling a vacancy in the representation of the state in the United States Senate. Pursuant to those procedures, the Governor may appoint and commission a qualified person to fill a vacancy until the vacancy is filled at the next general election or special election after the occurrence of the vacancy. Existing law provides that an election to fill the vacancy shall not be held if the vacancy occurs within a term fixed by law to expire on the third day of January following the next general election, in which case the Governor's appointment holds office for the remainder of the unexpired term, unless the vacancy is filled at a special election held prior to that general election.

This bill would delete the provisions described above allowing the Governor's appointment to hold office for the remainder of the unexpired term and requiring an election to fill the vacancy to be held at the next general or special election after the occurrence of the vacancy. The bill would instead require a statewide primary election and a statewide general election to fill the vacancy, to be consolidated with either the first or second respective regularly scheduled statewide primary and general elections after the occurrence of the vacancy, as specified. If the elections to fill the vacancy cannot be consolidated with regularly scheduled statewide elections, the bill would require the Governor to consult with the Secretary of State and determine whether it is practical to hold the elections to fill the vacancy, and would authorize the Governor to issue a writ of election for special statewide primary and general elections if the Governor determines it is practical. If the elections to fill the vacancy are consolidated with regularly scheduled elections that include an election to fill the United States Senate seat for the succeeding term, the bill would require the names of the candidates to fill the vacancy to appear on the consolidated ballot immediately below the candidates to fill the United States Senate seat for the succeeding term and would require elections officials to include on the ballot, sample ballot, voter information guide, and ballot materials a notice advising voters that the ballot of the election includes both of those elections, as specified. By increasing the duties of local elections officials relative to providing these notices and conducting vacancy elections, the bill would impose a state-mandated local program.

(2) Existing law generally requires a special election to be held to fill a vacancy in the State Senate, State Assembly, or United States House of Representatives and authorizes that special election to be consolidated with a regularly scheduled election held within 200 days of the proclamation of the special election if the regularly scheduled election occurs wholly or partially within the same territory in which the vacancy exists.

Existing law sets forth the order of precedence of offices on the ballot, with President and Vice President of the United States listed first and proceeding to progressively more local offices, as specified. Existing law requires the County of Los Angeles, for a

specified three-year period, to conduct its elections using an alternate ballot order in which local offices are listed first and national offices, including President and Vice President of the United States and United States Senator, are listed last. Existing law authorizes the County of Los Angeles to continue using that alternate ballot order after the three-year period ends.

When a special election to fill a vacancy in the State Senate, State Assembly, United States House of Representatives, or United States Senate is consolidated with the next regularly scheduled election for that office, this bill would require the County of Los Angeles, during that three-year period, to list the regularly scheduled election and the special vacancy election for that office first on the ballot, as provided. The bill would authorize the County of Los Angeles to continue using this alternate ballot order for a special vacancy election consolidated with a regularly scheduled election after the three-year period ends. By creating new duties relating to ballot order for local elections officials, the bill would impose a state-mandated local program.

(3) 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 10720 of the Elections Code is amended to read:

10720. (a) If a vacancy occurs in the representation of this state in the Senate of the United States, the Governor may appoint and commission an elector of this state who possesses the qualifications for the office to temporarily fill the vacancy until a person is elected at a statewide general election to hold office for the remainder of the unexpired term and is admitted to the vacated seat by the United States Senate. The person so elected shall hold office for the remainder of the unexpired term.

(b) The Governor shall issue a writ of election for a statewide general election to fill a vacancy described in subdivision (a) in accordance with the following:

(1) If the vacancy occurs 148 days or more before the regularly scheduled statewide primary election next following the occurrence of the vacancy, a statewide primary election and a statewide general election to fill the vacancy shall be held on the same dates as, and consolidated with, the regularly scheduled statewide primary and general elections, respectively, next following the occurrence of the vacancy.

(2) If the vacancy occurs less than 148 days before the regularly scheduled statewide primary election next following the occurrence of the vacancy, a statewide primary election and a statewide general election to fill the vacancy shall be held on the same dates as, and consolidated with, the second regularly scheduled statewide primary and general elections, respectively, next following the occurrence of the vacancy.

(c) Notwithstanding subdivision (b), if an election date prescribed by subdivision (b) would occur after the expiration of the term in which the vacancy occurred, the Governor shall consult with the Secretary of State as to whether it is practical to issue a writ of election to fill the vacancy before the expiration of the term. If the Governor determines, in the Governor's discretion, that it is practical, the Governor may issue a writ of election for special statewide primary and general elections to fill the vacancy.

(d) Notwithstanding any other law, the following apply whenever an election to fill a vacancy in the United States Senate is consolidated with a statewide election and appears on the same ballot as a regular election for the term of the Senate seat subsequent to the term in which the vacancy occurred:

(1) The candidates for the election to fill the vacancy shall appear on the consolidated ballot immediately after the candidates for the regular election for the succeeding term.

(2) Elections officials who provide voter information guides, sample ballots, and ballot materials shall include on those materials a notice that advises voters that the ballot includes elections for the succeeding term and for the remainder of the unexpired term of the vacated Senate seat. The notice shall appear in boldface type and in a clearly legible font size. The Secretary of State shall prescribe the language for the notice.

(3) Elections officials who provide ballots for a consolidated election pursuant to this section shall include on the ballot, in a box immediately above the spaces on the ballot for United States Senate elections, a notice that advises voters that the ballot includes elections for the succeeding term and for the remainder of the unexpired term of the vacated Senate seat. The notice shall appear in a boldface type and a clearly legible font size. The Secretary of State shall prescribe the language for the notice.

SEC. 2. Section 13109.7 of the Elections Code is amended to read:

13109.7. (a) (1) Notwithstanding Section 13109, for a period of three years commencing with the date that the county elections official for the County of Los Angeles declares that the voting system modernization project underway in 2018 is complete and ready for operation, the county elections official for the County of Los Angeles shall conduct elections using the alternate ballot order described in Section 13109.8.

(2) When a special election to fill a vacancy in the State Senate, State Assembly, United States House of Representatives, or United States Senate is consolidated with the regularly scheduled election for that office for the term following the term in which the vacancy occurred, the County of Los Angeles shall conduct elections using the alternate ballot order described in Section 13109.10.

(b) The county elections official shall prepare a report regarding the effect of using the alternate ballot order for elections conducted during the time period described in subdivision (a). The report shall include, but not be limited to, the following information:

(1) Statistics and information on the cost of transitioning to the use of the alternate ballot order.

(2) The overall turnout of voters in the jurisdiction for each election conducted using the alternate ballot order.

(3) For different contests listed on the ballot, including, but not limited to, local offices and local ballot measures, state offices and state ballot measures, and federal offices, the following information:

(A) The turnout of voters for each contest.

(B) The number of overvotes and undervotes for each contest.

(C) The dropoff rates for each contest.

(4) Legislative recommendations.

(c) The report described in subdivision (b) shall, whenever possible, compare an election conducted pursuant to this section and using the alternate ballot order described in Section 13109.8 to similar elections conducted using the ballot order described in Section 13109 in the same jurisdiction or in a comparable jurisdiction.

(d) Three years after the declaration date described in subdivision (a), the county elections official shall submit the report described in subdivision (b) to the Secretary of State and to the Legislature in accordance with Section 9795 of the Government Code. The county elections official shall also post a publicly accessible copy of the report on the internet website of the county elections official.

(e) Notwithstanding any other law, the county elections official may adjust ballot instructions to the extent necessary to comply with this section.

(f) Immediately after making the declaration described in subdivision (a), the county elections official shall post the declaration on the county election official's internet website and send the declaration to the Secretary of State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel.

(g) This section shall remain in effect only until the first January 1 that occurs at least four years after the declaration date described in subdivision (a), and as of that date is repealed.

SEC. 3. Section 13109.9 of the Elections Code is amended to read:

13109.9. Notwithstanding Section 13109, the county elections official for the County of Los Angeles may use the alternate ballot order described in Sections 13109.8 and 13109.10 for elections conducted after the completion of the pilot project described in Section 13109.7. Notwithstanding any other law, the county elections official may adjust ballot instructions to the extent necessary to conform to the alternate ballot order.

SEC. 4. Section 13109.10 is added to the Elections Code, to read:

13109.10. (a) When a special election to fill a vacancy in the State Senate, State Assembly, United States House of Representatives, or United States Senate is consolidated with the regularly scheduled election for that office for the term following the term in which the vacancy occurred, the order of precedence of offices on the ballot for the County of Los Angeles shall be as listed in this section. Beginning in the column to the left:

(1) Under the heading, REGULAR ELECTION:

Candidates or nominees to the State Senate, State Assembly, United States House of Representatives, or United States Senate, as applicable, for the term following the term in which the vacancy occurred.

(2) Under the heading, SPECIAL ELECTION:

Candidates or nominees to the State Senate, State Assembly, United States House of Representatives, or United States Senate, as applicable, for the remainder of the term in which the vacancy occurred.

(3) All other offices and measures shall be listed after the offices listed pursuant to paragraphs (1) and (2) according to the alternate ballot order described in Section 13109.8.

(b) This section shall remain in effect only until the first January 1 that occurs at least four years after the declaration date described in subdivision (a) of Section 13109.7, and as of that date is repealed.

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.