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AB-2582 Recall elections: local offices. (2021-2022)

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Assembly Bill No. 2582

CHAPTER 790

An act to amend Sections 11041, 11322, 11381, 11384, 11385, and 11386 of, and to add Section 11382 to, the Elections Code, relating to elections.

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2582, Bennett. Recall elections: local offices.

The California Constitution reserves to the electors the power to recall an elective officer and requires the Legislature to provide for recall of local officers. Existing law requires a recall election to include the question of whether the officer sought to be recalled shall be removed from office and an election for the officer's successor in the event the officer is removed from office.

This bill would instead require a recall election for a local officer to include only the question of whether the officer sought to be recalled shall be removed from office. If a local officer is removed from office in a recall election, the bill would provide that the office is vacant until it is filled according to law. The bill would make related conforming and clarifying changes.

This bill would incorporate additional changes to Section 11041 of the Elections Code proposed by AB 2584 to be operative only if this bill and AB 2584 are enacted and this bill is enacted last.

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

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

SECTION 1. Section 11041 of the Elections Code is amended to read:

11041. (a) The proponents shall use the recall petition format provided by the Secretary of State and available from the county elections official or the Secretary of State. Before any signature may be affixed to a recall petition, each page of each section must bear all of the following in no less than 8-point type:

(1) (A) (i) If the officer sought to be recalled is a state officer, a request that an election be called to elect a successor to the officer.

(ii) If the officer sought to be recalled is a justice of the Supreme Court or of a court of appeal, as specified in subdivision (a) of Section 16 of Article VI of the California Constitution, a request that the Governor appoint a successor to the officer.

(B) The petition shall not include a request for a successor to be elected or appointed if the officer sought to be recalled is a local officer.

(2) A copy of the notice of intention, including the statement of grounds for recall. For purposes of this paragraph, the copy of the notice of intention shall contain the names of at least 10 recall proponents that appear on the notice of intention and that are selected by the proponents. The elections official shall not require the names of more than 10 proponents to be included as part of the language of the notice of intention. The provisions of Section 11023 do not need to be included as part of the language of the notice of intention.

(3) The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

(b) All petition sections shall be printed in uniform size and darkness with uniform spacing.

SEC. 1.5. Section 11041 of the Elections Code is amended to read:

11041. (a) The proponents shall use the recall petition format provided by the Secretary of State and available from the county elections official or the Secretary of State. Before any signature may be affixed to a recall petition, each page of each section must bear all of the following in no less than 8-point type:

(1) (A) (i) If the officer sought to be recalled is a state officer, a request that an election be called to elect a successor to the officer.

(ii) If the officer sought to be recalled is a justice of the Supreme Court or of a court of appeal, as specified in subdivision (a) of Section 16 of Article VI of the California Constitution, a request that the Governor appoint a successor to the officer.

(B) The petition shall not include a request for a successor to be elected or appointed if the officer sought to be recalled is a local officer.

(2) A copy of the notice of intention, including the statement of grounds for recall. For purposes of this paragraph, the copy of the notice of intention shall contain the names of at least 10 recall proponents that appear on the notice of intention and that are selected by the proponents. The elections official shall not require the names of more than 10 proponents to be included as part of the language of the notice of intention. The provisions of Section 11023 do not need to be included as part of the language of the notice of intention.

(3) The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

(4) For a recall of a member of the governing board of a school district, the estimate of the county elections official, in consultation with the school district, of the cost of conducting the special election.

(b) All petition sections shall be printed in uniform size and darkness with uniform spacing.

SEC. 2. Section 11322 of the Elections Code is amended to read:

11322. In addition to the material contained in Section 11320, the following shall appear on ballots at all recall elections for state officers:

(a) The names of the candidates nominated to succeed the officer sought to be recalled shall appear under each recall question.

(b) Following each list of candidates, the ballot shall provide one blank line with a voting space to the right of it for the voter to write in a name not printed on the ballot.

SEC. 3. Section 11381 of the Elections Code is amended to read:

11381. Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(a) For recalls of state officers, the nomination papers and the declaration of candidacy shall, in each case, be filed no less than 59 days prior to the date of the election and not before the day the order of the election is issued. The Secretary of State shall certify the names of the candidates to be placed on the ballot by the 55th day prior to the election.

(b) No person whose recall is being sought may be a candidate to succeed himself or herself at a recall election.

SEC. 4. Section 11382 is added to the Elections Code, to read:

11382. There shall not be an election for a successor in a recall of a local officer pursuant to Chapter 3 (commencing with Section 11200). If a majority of the votes on a recall proposal for a local officer are “Yes”, the officer is removed and the office shall be vacant until it is filled according to law.

SEC. 5. Section 11384 of the Elections Code is amended to read:

11384. Except as provided in Section 11382, if a majority of the votes on a recall proposal are “Yes”, the officer sought to be recalled shall be removed from office upon the qualification of the officer’s successor.

SEC. 6. Section 11385 of the Elections Code is amended to read:

11385. If at a statewide recall election an officer is recalled, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer.

SEC. 7. Section 11386 of the Elections Code is amended to read:

11386. If the candidate who received the highest number of votes in a recall election for a state officer fails to qualify within 10 days after receiving the certificate of election, the office to which the candidate was elected shall become vacant and shall be filled according to law.

SEC. 8. Section 1.5 of this bill incorporates amendments to Section 11041 of the Elections Code proposed by both this bill and Assembly Bill 2584. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 11041 of the Elections Code, and (3) this bill is enacted after Assembly Bill 2584, in which case Section 1 of this bill shall not become operative.