AB-2584 Recall elections. (2021-2022)

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Assembly Bill No. 2584

CHAPTER 791

An act to amend Sections 11020, 11022, 11024, 11041, and 11242 of, and to add Section 11042.5 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 2584, Berman. Recall elections.

Existing law authorizes a registered voter of an electoral jurisdiction to seek the recall of an officer of that jurisdiction by publishing or posting a notice of intention to circulate a recall petition. Existing law requires the notice of intention to contain, among other things, a statement of the reasons for the proposed recall and the signatures of a specified number of proponents of the recall. Under existing law, within 7 days of the filing of the notice of intention, the officer sought to be recalled may file an answer to the proponents' statement of reasons for the recall. Existing law requires a recall petition to include, among other things, the notice of intention and the officer's answer.

This bill would increase the number of signatures required to be included in the notice of intention, with the total number of necessary signatures determined by the type of office held by the officer sought to be recalled, as provided. The bill would require, for a recall of a member of the governing board of a school district, the recall petition to include an estimate of the cost of conducting the special election.

The bill would require, for a recall of a local officer, the county elections official to make a copy of the recall petition available for public examination for 10 days, as provided. The bill would authorize a voter of the applicable electoral jurisdiction or the elections official, during those 10 days, to seek a writ of mandate or injunction requiring any or all of the statement of the proponents or the answer of the officer to be amended or deleted. The bill would require a court to issue a writ of mandate or injunction only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the applicable requirements for recall petitions. By requiring local elections officials to make recall petitions available for public inspection, the bill would create a state-mandated local program.

Existing law requires the governing board of a local government entity to issue an order calling an election if the elections official certifies to the board that the recall proponents gathered sufficient signatures to hold a recall election for an officer of the local government entity. Existing law requires the election to be held not less than 88 days and not more than 125 days from the issuance of the order.

This bill would permit the election to be consolidated with a regularly scheduled election conducted within 180 days after the issuance of the order.

This bill would incorporate additional changes to Section 11041 of the Elections Code proposed by AB 2582 to be operative only if this bill and AB 2582 are enacted and this bill is enacted last.

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 11020 of the Elections Code is amended to read:

11020. (a) The notice of intention shall contain all of the following:

(1) The name and title of the officer sought to be recalled.

(2) A statement, not exceeding 200 words in length, of the reasons for the proposed recall.

(3) The printed name, signature, and residence address, including street and number, city, and ZIP Code, of each of the proponents of the recall. If a proponent cannot receive mail at the residence address, the proponent shall provide an alternative mailing address. The notice of intention shall include at least the number of proponents specified in subdivision (b).

(4) The provisions of Section 11023.

(b) (1) For a state office, and for a local office where the number of registered voters in the electoral jurisdiction is at least 100,000, the minimum number of proponents listed on the notice of intention is 50, or equal to five times the number of signatures required to have been filed on the nomination paper of the officer sought to be recalled, whichever is higher.

(2) For a local office where the number of registered voters in the electoral jurisdiction is at least 1,000 but less than 100,000, the minimum number of proponents listed on the notice of intention is 30, or equal to three times the number of signatures required to have been filed on the nomination paper of the officer sought to be recalled, whichever is higher.

(3) For a local office where the number of registered voters in the electoral jurisdiction is less than 1,000, the minimum number of proponents listed on the notice of intention is 30.

SEC. 2. Section 11022 of the Elections Code is amended to read:

11022. A copy of the notice, except the provisions required by paragraph (4) of subdivision (a) of Section 11020, shall be published at the proponents' expense pursuant to Section 6061 of the Government Code. Publication shall be required unless there is no newspaper of general circulation able to provide timely publication in the jurisdiction of the officer sought to be recalled. If this publication is not possible, the notice, except the provisions required by paragraph (4) of subdivision (a) of Section 11020, shall be posted in at least three public places within the jurisdiction of the officer to be recalled.

SEC. 3. Section 11024 of the Elections Code is amended to read:

11024. (a) The statement and answer are intended solely for the information of the voters. No insufficiency in form or substance thereof shall affect the validity of the election proceedings.

(b) This section shall not be deemed to make the statement and answer, or the authors of the statement or answer, free or exempt from any civil or criminal action or penalty because of any false, slanderous, or libelous material included in the statement or answer.

SEC. 4. 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 request that an election be called to elect a successor to the officer. However, if the officer 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, the request shall be that the Governor appoint a successor to the 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. 4.5. 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. 5. Section 11042.5 is added to the Elections Code, to read:

11042.5. (a) For a petition for the recall of a local officer, the county elections official shall make a copy of the petition available for public examination in the elections official's office for 10 days, which shall run concurrently with the 10-day review period for the elections official to determine whether the form and wording of the petition are sufficient pursuant to Section 11042.

(b) (1) During the public examination period described in subdivision (a), a voter of the applicable electoral jurisdiction or the elections official may seek a writ of mandate or an injunction requiring any or all of the statement of the proponents or the answer of the officer included with the petition to be amended or deleted. The writ of mandate or injunction request shall be filed no later than the end of the 10-day public examination period.

(2) A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter.

SEC. 6. Section 11242 of the Elections Code is amended to read:

11242. (a) The election shall be held not less than 88, nor more than 125, days after the issuance of the order.

(b) Notwithstanding subdivision (a), the election may be conducted within 180 days after the issuance of the order so that the election may be consolidated with a regularly scheduled election.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 11041 of the Elections Code proposed by both this bill and Assembly Bill 2582. That section shall become operative only 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 2582, in which case Section 4 of this bill shall not become operative.

SEC. 8. 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.