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AB-868 Primary elections: county officers: top two candidates. (2025-2026)

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Date Published: 04/22/2025 09:00 PM

AMENDED IN ASSEMBLY APRIL 22, 2025

AMENDED IN ASSEMBLY APRIL 02, 2025

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 868

Introduced by Assembly Member Carrillo
(Principal coauthor: Senator Reyes)
(Coauthors: Assembly Members Alvarez, Arambula, Ávila Farías, and Jackson)

February 19, 2025

An act to amend Sections 1300, 8000, and 8140 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 868, as amended, Carrillo. Primary elections: county officers: top two candidates.

Existing law provides that a candidate for a nonpartisan office who at a primary election receives votes on a majority of all the ballots cast for candidates for that office is elected to that office.

This bill would exempt from that provision candidates for county nonpartisan offices, including a county office in a charter county, but not including a charter city and county, and would require the candidates who received the highest and second highest number of votes cast for nomination to that office to be placed on the ballot at the ensuing general election, except as specified. By imposing new duties on counties, including county elections officials, the 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. *The Legislature finds and declares all of the following:*

(a) California's electorate has long experienced inequities in voter participation between primary and general elections, with primary electorates consistently less reflective of the state's diverse population.

(b) Voter participation in California remains significantly lower during primary elections than in general elections, particularly among young people, low-income individuals, and communities of color. This results in primary electorates that do not fully reflect the state's population.

(c) According to the Public Policy Institute of California (PPIC) report "California's Exclusive Electorate: A New Look at Who Votes and Why It Matters," primary voters tend to be older, wealthier, and disproportionately white, with significantly lower participation among young voters, renters, and communities of color — particularly Latino and Asian American voters.

(d) Economic and structural barriers, including income inequality and lack of homeownership, contribute to lower voter turnout in primary elections among underrepresented communities.

(e) In the 2022 statewide election, Latino voter participation increased by 44.1% from the primary to the general election, as reported by Political Data Inc., while overall voter turnout increased by 34.66%. This disparity widened in the 2024 election, where Latino voter participation surged by 67.95% compared to a 51.89% increase among all California voters.

(f) The absolute number of Latino voters nearly doubled from the 2022 primary (1.13 million) to the 2022 general election (2.03 million), and more than tripled from the 2024 primary (1.24 million) to the 2024 general election (3.87 million), underscoring a significant underrepresentation of Latino voters in primary elections.

(g) Between 2016 and 2022, the average voter turnout in California's general elections was 55.39%, while primary election turnout averaged only 32.09%, according to data from the Secretary of State. This discrepancy in turnout has resulted in millions of Californians being excluded from key local and statewide decisions made during primary elections.

(h) Research from Sacramento State University's California Elections Data Archive (CEDA) found that, in 2022, over 90% of county-level contests appearing on the primary ballot were decided outright. This means critical local decisions are often made during low-turnout elections that fail to reflect the broader electorate.

(i) Real-life barriers such as long work hours, multiple jobs, childcare responsibilities, housing insecurity, and rising costs of living can make it difficult for many Californians — especially parents, workers, and students — to engage early in the electoral process.

(j) These disparities have a profound impact on representation and local decisionmaking, particularly in historically marginalized communities.

(k) Increasing civic engagement means ensuring that people have a meaningful opportunity to participate in decisions that affect their lives — at a time when they are most likely to be informed and involved.

(l) It is the intent of the Legislature to explore modifications that strengthen voter engagement, increase equity and representation in our electoral system, and ensure that all Californians have a fair and equal voice in choosing their local representatives. With this, the Legislature reaffirms its commitment to creating a more inclusive system of civic participation.

~~SECTION 1.~~ SEC. 2. Section 1300 of the Elections Code is amended 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 this code or 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 this code or 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.

(4) If a primary election does not occur pursuant to paragraph (2) of subdivision (b) of Section 8140, write-in candidates who comply with the applicable procedural requirements shall be permitted to appear on the ballot.

(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. 2.~~**SEC. 3.** Section 8000 of the Elections Code is amended to read:

8000. This chapter does not apply to:

(a) Recall elections.

(b) Presidential primary.

(c) Nomination of officers of cities or counties whose charters provide a system for nominating candidates for those offices, except as otherwise provided in this chapter.

(d) Nomination of officers for any district not formed for municipal purposes.

(e) Nomination of officers for general law cities.

(f) Nomination of school district officers.

~~SEC. 3.~~**SEC. 4.** Section 8140 of the Elections Code is amended to read:

8140. (a) (1) Except as provided in subdivision (b), any candidate for a nonpartisan office who at a primary election receives votes on a majority of all the ballots cast for candidates for that office shall be elected to that office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest number of votes of those receiving a majority, and equal in number to the number to be elected.

(2) Where a candidate has been elected to a nonpartisan office at the primary election, that office shall not appear on the ballot at the ensuing general election, notwithstanding the death, resignation, or other disqualification of the candidate at a time subsequent to the primary election.

(3) This subdivision applies to an election for an office of a charter city and county, but does not apply to an election for a county nonpartisan office, including an office of a charter county.

(b) (1) For a county nonpartisan office, the candidates who received the highest and second highest number of votes cast for nomination to that office at the primary election shall appear on the ballot for that office at the ensuing general election.

(2) If the number of candidates who have filed qualifying nomination documents pursuant to Article 2 (commencing with Section 8020) for a county nonpartisan office is not more than two, the primary election for that office shall not occur and the candidate or candidates who have filed qualifying nomination documents pursuant to Article 2 (commencing with Section 8020) shall appear on the ballot for election at the ensuing general election.

(3) This subdivision does not affect the ability of write-in candidates to appear on the ballot for the general election.

(4) This subdivision applies to an election for a county nonpartisan office, including an office of a charter county, but does not apply to a charter city and county or a charter county that, pursuant to its charter, has adopted or adopts an election system whereby candidates are elected at the statewide general election.

~~SEC. 4.~~**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.