



## **BACKGROUND**

“State Capitol.” To the frustration of middle school test takers, “state capital” and “state capitol” are homophones, but not synonyms. The former refers to the city that serves as a state’s seat of government, whereas the latter refers to the actual building or buildings where government meets. When there is a tie between candidates in certain multi-county elections, it is not enough for the SOS to summon those candidates to California’s *capital* of Sacramento to break the tie: current law provides that the candidates shall meet in the SOS’s *capitol* office.

But which building does that refer to? According to the Merriam-Webster Dictionary, “capitol” is capable of both a narrow and broad meaning. It may mean only that specific “building in which a state legislative body meets” or, more generally, that “group of buildings in which the functions of state government are carried out.” There are no court cases exploring which meaning of “State Capitol” was intended by the Elections Code. However, other state laws, for example Penal Code Section 171f, mostly seem to adopt the narrower meaning of that “building which is intended primarily for use of the legislative department and situated in the area bounded by 10th, L, 15th, and N Streets in the City of Sacramento.”

Discerning between these definitions is potentially relevant because the SOS has an office in downtown Sacramento near, but not in the same building as, where the Legislature legislates. Over one hundred years ago, when the statutory provisions addressing tied elections were first adopted, the SOS did share office space with the Legislature on the first floor of the historic 1874 State Capitol building, but no longer. Today, the SOS’s former office is an exhibit of the California Capitol Museum, restored to how it may have appeared in 1902. According to the Museum’s website, the SOS ceased to occupy that office in 1975.

Other SOS Offices. According to the SOS’s website, the SOS has offices in Sacramento and Los Angeles.

## **COMMENTS**

According to the author. SB 821 corrects an anachronism in California law requiring that, where there is a tie in certain multi-county contests, candidates appear at the Secretary of State’s “State Capitol” office to determine the tie by lot. However, no such office exists in the Capitol building. More importantly, there is simply no reason to require that Southern California candidates travel hundreds of miles to Sacramento to break a tie when the Secretary maintains a more convenient office in Los Angeles.

## **RELATED/PRIOR LEGISLATION**

SB 558 (Breed), Chapter 35, Statutes of 1919, required that, in the case of a tie vote for an election to be voted on in more than one county that must be determined by lot by the SOS, the SOS summon the candidates to appear at the SOS’s office at the state capitol.

## **POSITIONS**

**Sponsor:** Author

**Support:** None received

**Oppose:** None received

**-- END --**