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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Steven Glazer, Chair  
2023 - 2024 Regular

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**Bill No:** SCA 1 **Hearing Date:** 5/8/23  
**Author:** Newman  
**Version:** 1/30/23  
**Urgency:** **Fiscal:** Yes  
**Consultant:** Scott Matsumoto

**Subject:** Elections: recall of state officers

**DIGEST**

This measure, if approved by voters, eliminates the successor election for a recalled state officer and would provide, in the event an officer is removed in a recall election, that the office will remain vacant until it is filled in accordance with existing law. This measure also repeals the prohibition against the officer subject to the recall from being a candidate to fill the office in a special election, but prohibits the appointment of the officer subject to the recall election to fill the vacancy.

**ANALYSIS**

Existing law:

- 1) States, pursuant to the California Constitution, that the recall is the power of the voters to remove an elective officer.
- 2) Provides that a recall of a state officer is initiated by delivering to the Secretary of State (SOS) a petition alleging reason for recall. Provides that sufficiency of reason is not reviewable.
- 3) Provides that proponents have 160 days to file signed petitions. Provides that a petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of five counties equal in number to one percent of the last vote for the office in the county. Requires that signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts equal 20 percent of the last vote for the office. Requires the SOS maintain a continuous count of the signatures certified to that office.
- 4) Provides that an election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. Provides that a recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible

to vote at that next regularly scheduled election equals at least 50 percent of all the voters eligible to vote at the recall election.

- 5) Provides that if the majority vote on the question is to recall, then the officer is removed. Provides that if there is a candidate who receives a plurality, they are the successor. Prohibits the targeted state officer from being a successor candidate. Prohibits a successor candidacy for a judicial vacancy if the judge is recalled, as specified.
- 6) Requires the Legislature to provide for circulation, filing, certification of petitions, nomination of candidates, and the recall election.
- 7) Provides that if a recall of the Governor or SOS is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively.
- 8) Provides that a state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Prohibits another recall from being initiated against the officer until six months after the election.
- 9) Requires the Legislature to provide for the recall of local officers unless a county or city provides for recall within their respective charters.
- 10) Requires a local recall election to include only the question of whether the local elected officer should be removed from office, as specified. Prohibits the successor election for a local office from occurring at the same time as the recall election of a local elected officer, and requires the office, if a local officer is recalled, to become vacant until the position is filled according to existing law.

This measure:

- 1) Eliminates the successor election for a recalled state officer and would provide, in the event an officer is removed in a recall election, that the office will remain vacant until it is filled in accordance with existing law. Repeals the prohibition against the officer subject to the recall from being a candidate to fill the office in a special election, but prohibits the appointment of the officer subject to the recall election to fill the vacancy.
- 2) Provides that if a recall of the Governor is initiated, the recall duties of that office shall be performed by the SOS instead of the Lieutenant Governor. Provides that if recalls of the Governor and SOS are initiated at the same time, the recall duties of both offices shall be performed by the Controller.
- 3) Requires, notwithstanding a specified section in the California Constitution, the Lieutenant Governor become Governor for the remainder of the unexpired term that if the Governor is removed from office by recall. Provides that if the Governor is removed from office by recall before the close of the nomination period for the next statewide election during the first two years of the Governor's term, a special election shall be called to replace the Governor, be consolidated with the statewide primary election, and, if necessary, the subsequent statewide general election.

Provides that if a candidate receives a majority of the votes in the special election that is consolidated with the statewide primary election, that candidate shall become Governor for the remainder of the unexpired term. Provides that if no candidate receives a majority of the votes, the top two vote-getters shall compete in a special election consolidated with the subsequent statewide general election, and the winner of that election shall become Governor for the remainder of the unexpired term.

4) Makes corresponding formatting changes.

### **BACKGROUND**

Informational Recall Hearings. During the 2021-22 legislative session, the Assembly Committee on Elections and the Senate Committee on Elections & Constitutional Amendments held a series of joint informational hearings to review California's recall process following the previous gubernatorial recall election.

At the first hearing on October 28, 2021, the committees heard from current and former elected officials, elections experts, and academics about their perspectives on the state's recall process and different reform proposals, including increasing the number of signatures for qualifying a statewide recall and changing the method for selecting the successor to a recalled official.

At the second hearing on December 6, 2021, the committees heard from two panels of expert witnesses. The first panel of academics examined a limitation used in several states which only allows recalls to be initiated against an official for certain enumerated causes. The second panel of experts and local elected officials discussed the use of the recall at the local level, along with potential options for reform.

At the third and final recall informational hearing on February 1, 2022, the committees heard from the SOS who shared recommendations for improvements on the state recall process based on her consultation with outside experts and stakeholders. The committees also received an overview from Dr. Mark Baldassare, President and Chief Executive Officer of the Public Policy Institute of California (PPIC), regarding its January 2022 statewide survey in which the PPIC asked Californians about their views on the recall process. Dr. Baldassare presented new data from their statewide survey and discussed whether and how the views of California voters about the recall process have changed since statewide surveys that PPIC conducted in July and November of last year.

One of the major takeaways from the committee's first two hearings was that many of the recall reform proposals would require voter approval in order to take effect. In particular, proposals to make significant structural changes to the recall process at the state level generally require an amendment to the California Constitution. By contrast, changes to the process for recalling local elected officials and certain procedural changes to the state process can be made through statutory changes alone. The third hearing generally reinforced the importance of continuing to evaluate California's recall processes and that California voters generally support reform of the recall process, but are against any changes to the recall procedure or process that diminish or decrease the voter's power to recall an elected official.

Recent Changes to Local Recall Elections. In 2022, the Legislature passed and Governor Newsom signed AB 2582 (Bennett), Chapter 790, Statutes of 2022. AB 2582 made changes to the two-question process for the recall of local officers in jurisdictions that do not have a charter providing for recall. Specifically, AB 2582 removed the successor candidate question from the recall question, so that the election for a local officer only includes the question of whether the officer sought to be recalled shall be removed from office.

History of Recall Elections. According to the SOS, since 1913 there have been 179 recall attempts of state elected officials in California (trial court judges are considered local officials for the purposes of state statutes governing recalls and are not included in these figures). Eleven recall efforts collected enough signatures to qualify for the ballot. Of the 11 recall elections, the elected official was recalled in six instances. Below is a list of recall attempts of state officials that have qualified for the ballot and the outcome of the election:

<b>Year</b>	<b>Officer</b>	<b>Outcome</b>
1913	Senator Marshall Black	Recalled
1913	Senator Edwin E. Grant	Recalled
1914	Senator James C. Owens	Unsuccessful
1994	Senator David Roberti	Unsuccessful
1994	Assemblymember Michael Machado	Unsuccessful
1994	Assemblymember Paul Horcher	Recalled
1995	Assemblymember Doris Allen	Recalled
2003	Governor Gray Davis	Recalled
2007	Senator Jeffrey Denham	Unsuccessful
2018	Senator Josh Newman	Recalled
2021	Governor Gavin Newsom	Unsuccessful

Little Hoover Commission. The Little Hoover Commission (LHC) launched a study in 2021 to consider whether the state's system for recalling state office-holders should be changed, and if so, how. The study resulted in its 2022 report, "Reforming the Recall." In the report, the LHC concluded that the recall system should be retained, both because it is substantively valuable – voters should be able to fire an elected official mid-term – and because it is overwhelmingly popular with voters. However, the report also concluded that substantial changes are needed in California's recall process.

According to the report, current recall procedures breed the possibility of an undemocratic outcome since they allow a replacement candidate to win office while receiving fewer votes than the incumbent. There is also concern that the recall is subject to potential overuse or abuse. The report made various recommendations, including replacing the existing two-part recall ballot with a "snap" special election in which the official targeted for recall is placed on the ballot with all replacement candidates.

### **COMMENTS**

- 1) According to the author: California's recall provisions were conceived of and enacted more than 110 years ago. Obviously, the world has changed quite a bit

since then, and sadly, politics is no exception. The system in its current form offers bad actors an incentive to target an elected official with whom they disagree and to have the official replaced by someone who otherwise would not enjoy the support of a majority of voters. SCA 1 will ensure that statewide and legislative recalls in California are democratic, fair, and not subject to political gamesmanship. This constitutional amendment will adjust how state-level recall elections are conducted, so that only one question will appear on a recall ballot, asking a voter to decide whether or not an elected official should be recalled from office. If a recall is successful, the official will be replaced in the manner consistent with existing law if the official were to leave office for any other reason.

- 2) Argument in Support. In a letter co-sponsoring SCA 1, the League of Women Voters and California Common Cause stated, in part, the following:

*The League of Women Voters of California and California Common Cause are co-sponsoring the constitutional amendment proposed by SCA 1 because it would retain access to the recall, but in a way that should ensure recall outcomes are democratic and broadly supported and will help to eliminate recalls that are frivolous or degrade democratic legitimacy.*

- 3) Argument in Opposition. In a letter opposing SCA 1, Election Integrity Project California, Inc., stated, in part, the following:

*The proposal of SCA 1 that the Lieutenant Governor simply assume the governorship in the event of a successful recall would make a gubernatorial recall effort a “frying pan vs the fire” situation, and monumentally suppress not only the people’s right to self-govern but their eagerness to participate in government at all.*

*Every step should be taken to encourage full participation of all eligible voters in making the decisions and choices that affect their lives and keep our Republic not only strong but also responsive to its constituents. SCA 1 is definitely a step in the wrong direction.*

*The current system of having a ballot with both a YES or NO choice regarding recall and a slate of potential replacements to select from in the event the recall is successful is effective, streamlined, fiscally responsible and fair to the voters.*

### **RELATED/PRIOR LEGISLATION**

AB 2582 (Bennett), Chapter 790, Statutes of 2022, changed the two-question process for the recall of local officers in jurisdictions that do not have a charter providing for recall by removing the successor candidate question from the recall question, so that the election for a local officer to only include the question of whether the officer sought to be recalled shall be removed from office and, if successful, if filled by existing laws for vacated offices.

AB 2584 (Berman), Chapter 791, Statutes of 2022, increased the total number of proponents required to be included on a notice of intention to recall an elected officer, established a public display period for local recall petitions, authorized a voter to seek a

writ of mandate or injunction requiring any or all of the statement of the proponents or answer of the officer to be amended or deleted on a recall petition, required a petition for the recall of a school board member to contain a fiscal estimate of the cost for conducting the recall election, and changed the timeframe for when a qualified local recall election is held.

SCA 3 (Allen) of 2022 would have eliminated the first question on the recall ballot that asks whether a state official should be recalled, and instead automatically places the incumbent's name on the recall ballot along with any potential replacement candidates running for the office. If the incumbent receives a plurality of the vote, the recall fails, and if a replacement candidate receives a plurality, the recall succeeds and that candidate is elected. SCA 3 was referred to this committee, but was not heard.

SCA 6 (Newman) of 2022, substantially similar to this measure, would have eliminated the second question on the recall ballot that asks which candidate should replace the recalled official, and instead generally requires the office, if the state officer is recalled, to become vacant and to be filled in accordance with existing law. SCA 6 was referred to this committee, but was not heard.

### **POSITIONS**

**Sponsor:** Secretary of State Shirley N. Weber, Ph.D.  
California Common Cause  
League of Women Voters of California

**Support:** None received

**Oppose:** Election Integrity Project California, Inc.  
Three Individuals

**-- END --**