

Date of Hearing: May 7, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 1311 (Bradford) – As Amended: March 21, 2013

SUBJECT: Recall elections.

SUMMARY: Establishes a process for filling a vacancy in an office that occurs after a recall petition has been filed against the vacating officer. Specifically, this bill:

- 1) Requires the elections official or officials to verify the signatures on the recall petition that have been submitted as of the date of the vacancy.
- 2) Provides that if a sufficient number of signatures have been filed for the recall to qualify as of the date of the vacancy, the recall election shall proceed.
- 3) Provides that if an insufficient number of signatures or no signatures were filed for the recall to qualify as of the date of the vacancy, the recall shall not proceed and the vacancy shall be filled as provided by law.
- 4) Provides that a person who is the subject of a recall petition may not be appointed to fill the vacancy in the office that he or she vacated nor shall that person be appointed to fill any other vacancy in office on the same governing board for the duration of the term of office of the seat that he or she vacated.
- 5) Deletes the requirement that any person appointed to fill a vacancy shall hold the office only until a successor is selected.

EXISTING LAW provides that if a vacancy occurs in an office after a recall petition is filed against the vacating officer, the recall election shall proceed. Provides that the vacancy shall be filled as provided by law, but any person appointed to fill the vacancy shall hold office only until a successor is selected and the successor qualifies for that office.

FISCAL EFFECT: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) Purpose of the Bill: According to the author:

Questions have arisen of how current law would be interpreted regarding the timing of a vacancy in an office subject to a recall. Specifically, concerns have been raised over "musical chairs" gamesmanship, where someone might resign to avoid a recall moving forward then get appointed to another vacancy on the same governing body. Current law provides that if an elected official resigns after a recall petition is filed with the county elections official, the entire recall process, including the requirement that an election be held, must proceed. . . . AB 1311 addresses this conflict by clarifying the process to be followed when the elected official resigns after recall petitions have been filed with a county elections office.

2) Argument in Support: Secretary of State Debra Bowen writes in support:

Current law provides that if an elected official resigns after a recall petition is filed with the county elections official, the entire recall process must proceed, including an election to remove someone who is no longer in office. This is potentially very expensive for taxpayers who must pay for every election.

AB 1311 clarifies the process by requiring that if an officer resigns during the recall qualification process, elections officials would immediately verify the number of signatures submitted as of that date. If there were a sufficient number of valid signatures, the recall election would proceed. If the number of valid signatures were not sufficient, then the recall process would end, and the vacancy would be filled as otherwise provided by law.

AB 1311 would prohibit the person who was the subject to the recall petition from resigning and then being appointed to the vacated office or to any other vacancy in office on the same governing board during the term of office for the vacated seat. These provisions prevent misuse of statutes regarding vacancies in office in an effort to circumvent the recall process.

3) Previous Legislation: AB 2088 (Adams) of 2010, was substantially similar to this measure except that AB 2088 would have clarified a conflict regarding the number of signatures that need to be verified using a random sampling technique when recall petitions are filed. AB 2088 was vetoed by Governor Schwarzenegger. In his veto message, Governor Schwarzenegger said that "this bill would limit an important power of direct democracy by limiting voters' ability to recall an elected official and elect a replacement. Unfortunately recall efforts can become punitive rather than a constructive effort to replace an officeholder; however, the recall process as a whole is an important component of the people's right to directly change their government. Under the provisions of this bill, an official subject to a recall could resign and allow a successor to take their place. This limits the ability of the voters to select the replacement through a recall election."

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094