Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 2080 (Gordon) – As Introduced: February 23, 2012

SUBJECT: Recall elections: state officers: signature verification.

SUMMARY: Makes a technical correction to the process governing the verification of signatures on a recall petition. Specifically, this bill provides that if 500 or more signatures are submitted to an elections official on a petition for the recall of a state officer, the elections official may verify, using a random sampling technique, either three percent of the signatures submitted or 500 signatures, whichever is greater, instead of verifying the lesser of the two amounts.

EXISTING LAW:

1) Establishes a procedure for the recall of state officers.

2) Requires a section of a petition for the recall of a state officer to be filed with the elections official of the county for which it was circulated.

3) Provides that, upon each submission of a section of a petition for the recall of a state officer to a county elections official, the officials shall count the number of signatures on the section and submit those results to the Secretary of State. Provides that if 500 or more signatures are submitted, the elections official may verify, using a random sampling technique, either three percent of the signatures submitted, or 500 signatures, whichever is less.

4) Requires elections officials, when using a random sampling technique to determine the number of valid signatures on a petition for the recall of a local officer, to examine at least 500 signatures or five percent of the signatures, whichever is greater.

5) Requires elections officials, when using a random sampling technique to determine the number of valid signatures on the nomination papers for a candidate who is running using the independent nomination process, to examine at least 500 signatures or five percent of the signatures, whichever is greater.

6) Requires elections officials, when using a random sampling technique to determine the number of valid signatures on a petition for a state initiative or referendum, to examine at least 500 signatures or three percent of the signatures, whichever is greater.

7) Requires elections officials, when using a random sampling technique to determine the number of valid signatures on a petition for a county, city, or district initiative, to examine at least 500 signatures or three percent of the signatures, whichever is greater.

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

> Under existing law, the various provisions addressing requirements for qualifying
> a recall for a ballot are inconsistent. If fewer than 500 signatures for a recall
> petition are submitted to the county elections official, he or she shall count the
> number of signatures and, for state officers, submit those results to the Secretary
> of State.
>
> However, if there are 500 or more signatures submitted, multiple potentially
> conflicting standards exist. One sets a threshold of a random sampling of at least
> 500 or 3 percent of signatures, whichever is less, while other provisions set a
> threshold of a random sampling of at least 500 or 3 percent of the signatures,
> whichever is greater.
>
> Specifically, under Section 11105 of the Elections Code, which governs the recall
> of state officers, the elections official may verify, using a random sampling
> technique, either 3 percent of the signatures submitted, or 500, whichever is less.
> This is inconsistent with the test applied by other provisions of the Elections
> Code. Under Sections 11225, which governs the recall of local officers, the
> random sample is at least 500 or 5 percent, whichever is greater. Section 9030,
> the broad provision related to petitions related to state elections, provides that the
> random sample is at least 500 or 3 percent, whichever is greater. Similarly, the
> two provisions of law governing local measures submitted to voters, Sections
> 9115 and 9309, also use the random sampling standard of 500 or 3 percent,
> whichever is greater.
>
> This bill would reconcile the inconsistency between standards for random
> sampling for a state officer's recall so that it is consistent with the process in place
> for local recalls, the general petition verification law, and local ballot measures.
> Specifically, this bill eliminates any conflict and provides that the random sample
> to be of whichever is greater between 500 signatures or 3 percent of the
> signatures.

2) Random Sampling: Existing law permits elections officials to use a random sampling
technique when verifying the signatures on petitions in certain situations where officials are
presented with petitions with large numbers of signatures. Under this technique, officials
select a specified number of signatures from the petition at random, check the validity of
those signatures, and based on that check of a small number of signatures, project the total
number of valid signatures on the petition. Because this technique only provides a projection
of the number of valid signatures on the petition, rather than an actual hard count of the
number of valid signatures, existing law generally provides that the results of a random
sample of signatures can only be substituted for a full verification of all signatures on the
petition when the projected number of signatures is either significantly above or significantly
below the number of signatures needed. If the number of signatures that are projected to be
valid is neither significantly more nor significantly less than the number of signatures
required on the petition in question, elections officials generally are required to determine the

validity of each signature on the petition before making a final determination whether the petition contains a sufficient number of signatures. In situations where the random sampling technique projects that the number of signatures on the petition is significantly higher than the number of signatures required on the petition, the petition is deemed to have a sufficient number of signatures without the need for a full examination, and if the random sampling results in projection that the number of signatures is significantly lower than the number needed, the petition is deemed to have an insufficient number of signatures without the need for a full examination. By avoiding the need to examine every signature on every petition filed with an elections official, the random sampling technique can significantly reduce the time and expense associated with verifying signatures on petitions.

In almost every case in which existing law provides for a random sampling process for verifying signatures on petitions, the law requires the elections official to verify either a certain number of signatures, or a certain percentage of the total number of signatures submitted, whichever is larger. As a general rule, this policy means that petitions with a larger number of signers will have a larger number of signatures chosen for verification as part of the random sampling process.

However, in the case of petitions for the recall of a state officer, for any petition that has 500 signatures or more, existing law provides that the elections official must examine either 500 signatures or three percent of the signatures on the section of the petition, whichever is less. This is the only situation in which the Elections Code establishes a standard where an official using a random sampling technique would base the number of signatures that needed to be verified on the lesser of the two numbers. This appears to be a technical error in the statute. Otherwise, existing law would require an elections official to verify every signature on a petition section that contained 499 signatures, but would only require 15 signatures to be verified on a petition with 500 signatures. Similarly, the existing statute would require an elections official to examine 500 signatures on a section of a petition whether that section had 17,000 signatures on it, or 100,000 signatures on it.

This bill corrects this apparent technical error by providing that elections officials must examine the greater of 500 signatures or three percent of the signatures on the section of the petition whenever examining a section of a petition for the recall of a state officer.

3) Previous Legislation: Among other provisions, AB 2088 (Adams) of 2010 contained a provision that was substantively identical to this bill regarding the use of random sampling to verify signatures on a petition for the recall of a state officer. AB 2088 was vetoed by Governor Schwarzenegger due to the other, unrelated provisions of that bill.

REGISTERED SUPPORT / OPPOSITION:

Support	Opposition
Secretary of State Debra Bowen (sponsor)	None on file.

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