

Date of Hearing: March 26, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 94 (Bennett) – As Introduced January 7, 2025

SUBJECT: Recall elections: successors.

SUMMARY: Prohibits a recalled local officer from being appointed to fill the resulting vacancy. Specifically, **this bill:**

- 1) Prohibits an elected local officer who is removed from office by a recall election from being appointed to fill the resulting vacancy in that office.
- 2) Corrects a technical error.

EXISTING LAW:

- 1) Provides that recall is the power of the electors to remove an elective officer. (California Constitution, Article II, §13)
- 2) Requires, in the case of a recall of a state officer other than a judge of the Supreme Court or a court of appeal, the recall election to include both an election to determine whether to recall the officer and an election to elect a successor. Provides that if the majority vote on the question is to recall, the officer is removed and the candidate who receives a plurality is the successor, as specified. Prohibits the officer who is the subject of the recall from being a candidate in the election to choose a successor. (California Constitution, Article II, §15)
- 3) Requires the Legislature to provide for the recall of local officers, but provides that this provision does not affect counties and cities whose charters provide for recall. (California Constitution, Article II, §19)
- 4) Requires the following to appear on the ballots at every recall election, except as specified, with respect to each officer sought to be recalled:
 - a) The question “Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?”
 - b) Next to that question, the words “Yes” and “No” on separate lines with a voting target next to each. (Elections Code §11320)
- 5) Provides, in the case of a recall election for a local officer, that there shall not be an election for a successor. Provides that if a majority of the votes on a recall proposal for a local officer are “Yes,” the officer is removed and the office is vacant until it is filled according to law. (Elections Code §11382)
- 6) Provides that if an officer is recalled at a statewide recall election, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer. (Elections Code §11385)

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

- 1) **Purpose of the Bill:** According to the author, “AB 94 makes important clarifying changes to remove any ambiguity as to which recall process applies to state officers, and secures policy alignment with the 2026 ballot measure put forward by the Legislature via SCA 1 of 2024 regarding state officer recalls. It is just common sense that the recall process should be consistent.”
- 2) **Recall Informational Hearings:** In late-2021 and early-2022, this committee held a series of joint informational hearings with the Senate Elections & Constitutional Amendments Committee to review California’s recall process following the September 2021 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 Secretary of State, 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 regarding the January 2022 statewide survey by the Public Policy Institute of California, in which it asked Californians about their views on the recall process.

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.

- 3) **Local Recalls and Previous Legislation:** Until 2023, *local* recall elections held in California generally were conducted in a similar manner to how *state* recall elections are conducted: namely, as a two-part election where voters were asked (1) whether the targeted official should be recalled, and (2) if the recall is successful, who should replace the recalled officer. In 2022, however, the Legislature passed and Governor Newsom signed AB 2582 (Bennett), Chapter 790, Statutes of 2022. For local jurisdictions that do not have a charter provision that

provides for recall, AB 2582 removed the successor candidate question from the recall election, 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. Any vacancy created as the result of a successful recall election under AB 2582 is filled in the same manner as a vacancy in that office otherwise would be filled.

Last session, the Legislature considered and approved SCA 1 (Newman), Resolution Chapter 204, Statutes of 2024. SCA 1 proposes an amendment to the California Constitution that would provide for a state recall election to include only the question of whether the elected officer sought to be recalled should be removed from office, similar to the process that was established for local recall elections by AB 2582. SCA 1 will be submitted to the voters for their consideration at the November 2026 statewide general election, and will only take effect if approved by the voters.

If SCA 1 is approved by voters and a state officer is recalled, the resulting vacancy generally would be filled in the same manner as any other vacancy in that office. For instance, if a member of the Board of Equalization (BOE) was recalled, the Governor would have the ability to nominate someone to fill the resulting vacancy, with the nominee taking office upon confirmation by the Assembly and the Senate. However, SCA 1 also includes a constraint on who the Governor may nominate in that situation; specifically, SCA 1 would prohibit the recalled officer from being appointed to fill the vacancy that resulted from the recall. This bill would establish a similar limitation on appointments to fill a vacancy that result from a local recall election, thereby more closely aligning the state and local recall processes should SCA 1 be approved by voters.

- 4) **Technical Correction:** Prior to the enactment of AB 2582, the process for state and local recall elections was relatively similar. Because AB 2582 created a new process for local recalls, it also made corresponding changes to provisions of the Elections Code that previously had applied to both state and local recalls, making those provisions applicable solely to recalls of elected state officials.

One such corresponding change amended Section 11385 of the Elections Code to specify that it applies only to *statewide* recall elections. That change, however, inadvertently excluded recalls of elected state officers who are not elected statewide, such as members of the BOE and of the Legislature. This bill corrects that inadvertent error, and makes clear that Section 11385 of the Elections Code applies to any recall of a state officer.

- 5) **Arguments in Support:** In support of this bill, SEIU California writes, “When a local officer has been recalled from office, the community has expressed a vote of no confidence in the elected official. Thus, the officer should not be appointed to fill the vacancy and continue to serve in their role until a replacement is chosen. This bill promotes good governance at the local level.”

REGISTERED SUPPORT / OPPOSITION:

Support

SEIU California

Opposition

None on file.

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