

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 641 (Allen) – As Amended April 24, 2019

**SENATE VOTE:** 37-0

**SUBJECT:** Special elections.

**SUMMARY:** Provides the Governor with additional flexibility in scheduling a special election to fill a vacancy in Congress or the Legislature if the special election can be consolidated with another election occurring at least partially within the same territory in which the vacancy exists. Specifically, **this bill:**

- 1) Expands the situations in which the Governor may schedule a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly outside the otherwise-required window of 126 days to 140 days following the issuance of the election proclamation by the Governor as follows:
  - a) Extends, from 180 days to 200 days, the maximum amount of time between the issuance of the election proclamation and the date on which the special general election may be held; and,
  - b) Eliminates requirements that in order to schedule the special election outside the 126-140 day window, the special election must be consolidated with a *regularly-scheduled* election in which at least half of the voters eligible to vote in the vacancy election are eligible to participate, and instead allows the Governor to schedule the special election outside the 126-140 day window if the special primary or general election can be consolidated with *any* election that has *any* territory in common with the area in which the vacancy exists.
- 2) Makes a technical change.

**EXISTING LAW:**

- 1) Requires the Governor to issue a proclamation calling a special election within 14 calendar days of the occurrence of a vacancy in a congressional or legislative office, unless that vacancy occurs after the close of the nomination period in the final year of the term of office.
- 2) Requires a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly be conducted on a Tuesday at least 126 days, but not more than 140 days, following the issuance of an election proclamation by the Governor.
- 3) Provides that the special election may be conducted within 180 days following the Governor's proclamation if it will allow either the special runoff or special primary election to coincide with a regularly scheduled statewide or local election involving at least half the voters in the affected jurisdiction.

- 4) Provides that the date of the special primary election is calculated by counting back nine or ten Tuesdays preceding the day of the special general election at which the vacancy is to be filled, as specified

**FISCAL EFFECT:** None. This bill has been keyed non-fiscal by the Legislative Counsel.

**COMMENTS:**

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

Over the past several decades, there has been a proliferation of special elections. California law requires the governor to call a special election to fill vacancies in the US House of Representatives, State Senate and State Assembly within fourteen days of the vacancy. Since 2010, there have been nearly thirty vacancies within these legislative offices. Special elections often create a cascading effect where an elected official resigns his or her seat, which then creates a vacancy in another legislative body and another special election. Special elections are unexpected and costly. The LA Times reported in January 2017 that the Los Angeles County Registrar of Voters estimated that the election to replace US Representative Xavier Becerra cost approximately \$1.3 million. Los Angeles County conducted 23 special elections from 2008 to 2015, at a cost of \$22.7 million.

SB 641 gives the governor more flexibility to work with local counties to determine the best election date for special elections by expanding the consolidation timeline from 180 to 200 days. By giving local jurisdictions a longer timeline for special election consolidation, there may be a higher likelihood that the special election can be conducted at the same time as a scheduled election in the jurisdiction. Consolidation can lead to better voter turnout and results in cost savings to the jurisdiction.

- 2) **Impact of this Bill:** This bill provides additional flexibility to the Governor in scheduling a special vacancy election if the area in which the vacancy occurs has an upcoming election already scheduled, both by reducing the conditions that must apply in order for the Governor to exercise that flexibility, and by extending the timeline during which such a special election may be conducted. Consolidating a special election to fill a vacancy with a scheduled election could cut down on the number of elections being held and reduce unanticipated costs incurred in the conduct of elections.
- 3) **Vacancy Elections:** From 1993 through 2007, the state reimbursed counties for the costs of special elections to fill vacancies in the State Senate, Assembly, and United States Senator or Representative. However the provision of state law that required the state to reimburse counties for the costs of conducting special vacancy elections expired January 1, 2008.

According to records provided by the Secretary of State, since 2008 there have been 62 special elections conducted to fill vacancies in the State Senate, Assembly and United States Senate or House of Representatives.

Following the expiration of reimbursement provisions, counties have been forced to redirect important resources budgeted for critical community services to cover the unanticipated costs of conducting mandated special elections.

According to the author, this bill seeks to extend the timeline for special election consolidation from 180 days to 200 days following the elections proclamation and gives the local jurisdictions a longer timeline for special election consolidation and therefore may increase the likelihood that the special election can be conducted at the same time as a scheduled election in the jurisdiction.

- 4) **Argument in Support:** In support of a prior version of this bill, the American Civil Liberties Union of California wrote;

By giving local jurisdictions a longer timeline for special election consolidation, there may be a higher likelihood that the special election can be conducted at the same time as a scheduled election in that jurisdiction. . . This consolidation may provide significant cost savings to the jurisdiction administering the election.

Special elections often create a cascading effect where an elected official resigns his or her seat, which then creates a vacancy in another Legislative body and another special election. Special elections are also unexpected and costly: Los Angeles County conducted 23 special elections from 2008-2015, at a cost to the county of \$22.7 million. Special elections also have particularly low voter turnout. Congressman Jimmy Gomez was voted into office during the regular election cycle in 2016 with 110,036 votes. His replacement in the Assembly, Wendy Carrillo, won her special election for the same seat in 2017 with 11,100 votes.

- 5) **Previous Legislation:** AB 2095 (Quirk-Silva), Chapter 210, Statutes of 2018, provides that a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Assembly may be conducted within 180 days following the election proclamation in order to consolidate the election or primary election with *any* regularly scheduled election instead of limiting that flexibility to situations where the special election can only be consolidated with the *next* regularly scheduled statewide or local election.

AB 1886 (Carrillo), of 2018, which was held on the Assembly Appropriations Committee's suspense file, would have required the state to pay for all expenses authorized and incurred in the preparation for and conduct of special elections proclaimed by the Governor to fill a legislative or congressional vacancy.

SB 1275 (Lieu), Chapter 685, Statutes of 2012, modified the timeline for conducting special elections to fill vacancies, extended the time for candidates to circulate nomination papers before a special primary election by ten days, and extended the time period for voters to apply for a vote by mail ballot before a special primary election from 25 to 29 days.

AB 3070 (Elections & Redistricting Committee), Chapter 108, Statutes of 2008, gave the Governor additional flexibility in scheduling special elections held to fill vacancies in the Legislature or Congress in an attempt to allow a larger number of special elections to be consolidated with regularly scheduled elections.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Civil Liberties Union of California (prior version)  
League of Women Voters of California

**Opposition**

None on file.

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