

Date of Hearing: March 21, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 1886 (Carrillo) – As Introduced January 18, 2018

SUBJECT: Payment of expenses.

SUMMARY: Requires 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. Specifically, **this bill:**

- 1) Provides that the state shall pay the costs of a special election to fill a vacancy in the office of the State Senate or Assembly, or to fill a vacancy in the office of United States Senator or Representative.
- 2) Provides that when an election to fill a vacancy is consolidated with any other election, only those additional expenses directly related to the election to fill the vacancy shall be paid for by the state.
- 3) Provides that this bill applies to any expenses incurred on or after January 1, 2017.

EXISTING LAW provides that all expenses authorized and necessarily incurred in the preparation for and conduct of elections are to be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city.

FISCAL EFFECT: Unknown

COMMENTS:

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

Existing law requires that any vacancy in an Assembly, Senate, or Congressional office to be filled by a special primary, and, if needed, a special general election. Existing law further requires all expenses incurred to prepare and conduct special elections to be paid by the respective counties.

AB 1886 would reinstate California's reimbursement commitment to counties as reflected in AB 37 (Chapter 39, Statutes of 93), which along with subsequent enacted legislation, reimbursed counties for the costs of special elections from 1993 through 2007. AB 1886 would require the state to pay for costs associated with preparing and conducting special elections incurred on or after January 1, 2017 for election proclaimed by the Governor to fill a vacancy for the offices of State Senate or Member of the Assembly, or to fill a vacancy in the office of United States Senator or Member of the House of Representatives.

The Legislative Analyst's Office (LAO) released a report last year during budget deliberations urging consideration of the state's role in conducting elections. In particular, the LAO notes that "the state has a clear interest in secure, timely, and uniform elections. While the state reaps regular benefits from county elections

administration, it only sporadically provides funding to counties for election activities." The LAO further recommends that "the Legislature develop a new financial relationship between the state and counties to (1) direct statewide elections policy and (2) provide a reasonable and reliable level of financial support that reflects the benefits to the state of county elections administration."

AB 1886 takes a modest first step in developing that relationship by lifting the costly burden of state and federal special elections and rightly shifting them to the state. Special elections are set in motion due to actions completely outside the control of counties; as a result, they are impossible to plan for and costly to administer. In Los Angeles County alone, from 2013 through 2017, the County conducted 16 special elections at a cost of \$18.6 million; of course, Los Angeles County (and others) are anticipating several special elections in 2018 due to resignations of members of the Legislature. At this time, the County anticipates an additional \$6.5 million to cover these special election costs.

Costs of this magnitude can impact county budgets dramatically through no fault of their own. AB 1886 recognizes this challenge and returns state policy on special election reimbursement to the way it operated for nearly fifteen years by requiring the state to cover costs related to special elections.

- 2) **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 50 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.

This bill applies to special vacancy elections that take place on or after January 1, 2017. In 2017 the Governor issued proclamations for special elections to fill vacancies in the 34th Congressional District and the 51st Assembly District. Those elections are subject to the reimbursement provisions included in this bill.

Upcoming elections that are subject to this bill include special primary elections to be held on April 3, 2018, to fill vacancies in Assembly Districts 39, 45, and 54 with run-off elections held, if necessary, on June 5, 2018. Additionally, on June 5, 2018, a special primary election is scheduled to fill the vacancy in Senate District 32, with a run-off election held, if necessary, on August 7, 2018.

- 3) **Recall Elections:** An election to determine whether to recall an officer, and if appropriate, to elect a successor is called by the Governor. If the majority vote on the question is to recall, the officer is removed and the candidate who receives a plurality of the votes is the successor. If the officer is removed and there is a successor, no vacancy is created by the

recall. If the officer is removed by a majority vote, and there is no candidate to succeed the recalled officer, a vacancy is created and an election to fill the vacancy will follow.

The Governor has called a special recall election to be held on June 5, 2018 within the 29th Senate District. While the costs for this special election are not covered by this bill, SB 96 (Committee on Budget and Fiscal Review), Chapter 28, Statutes of 2017, provides for reimbursement to the counties for any expenses necessarily incurred in the preparation and conduct of this special recall election.

- 4) **Arguments in Support:** The California State Association of Counties writes in support of this bill:

Elections administration is a basic and important duty assigned to counties on behalf of the State for candidate contests and policy decisions at all levels of government, from the smallest school district to the national stage. From 1993 through 2007, the state reimbursed counties for the costs of special legislative and congressional elections. However, this provision of law expired January 1, 2008. Since that time, the State has approved only a one-time allocation to support a single recall election through the 2017 Budget Act. The Secretary of State's Office estimated that four special elections conducted in 2015 totaled 6 million in county funds, and an additional special election in one county in 2016 cost \$500,000 to fill legislative vacancies. Already for 2018 there are already additional special elections scheduled.

All other local government agencies – cities, special districts and school – pay for their portion of elections. We believe it is appropriate for the State to also pay for their share in light of the direct impact on county budgets. This is especially important as county voting equipment and systems are rapidly aging and counties continue to carry over \$60 million in unpaid debt for election-specific state mandates.

- 5) **Prioritizing:** Since the 2009-2010 Legislative Session, there have been eleven unsuccessful legislative attempts to restore the requirement for the state to reimburse counties for the cost of legislative and congressional elections, which was originally enacted by AB 37 (Johnson), Chapter 39, Statutes of 1993. In each instance the proposals received unanimous support in either the Assembly or Senate election policy committees but died on the suspense file in either the Assembly or Senate Appropriations Committees.
- 6) **History of State Reimbursement Provisions for Special Election Costs:** AB 37 originally enacted the reimbursement provisions that this bill seeks to restore. The purpose of AB 37 was to provide relief to counties who could not afford the costs associated with special elections. AB 37 was enacted in response to an increasing number of special elections to fill vacancies in the wake of the enactment of term limits. AB 37 contained a sunset date of January 1, 1996.

AB 1709 (McPherson), Chapter 1102, Statutes of 1996, extended the sunset date on AB 37 from January 1, 1996 to January 1, 2000. AB 547 (Longville), Chapter 790, Statutes of 1999, further extended the sunset date to January 1, 2005. AB 183 (Longville) of 2001 would have removed the sunset date altogether, but it was vetoed by Governor Davis, who in his veto stated: "Given the decline of the state economy, there is ample time to make this

decision before the 2005 sunset." AB 783 (Jones), Chapter 714, Statutes of 2005, reinstated the reimbursement provision enacted by AB 37 and extended the sunset date from January 1, 2005 to January 1, 2006. AB 1799 (McCarthy), Chapter 727, Statutes of 2006, extended the sunset date from January 1, 2006 until January 1, 2007. AB 119 (Price), Chapter 487, Statutes of 2007, restored the reimbursement provision to apply to any special election held on or after January 1, 2007 and before January 1, 2008.

REGISTERED SUPPORT / OPPOSITION:**Support**

Los Angeles County Board of Supervisors (Sponsor)
California State Associations of Counties
Riverside County Board of Supervisors
Rural County Representatives of California
Santa Clara County
Santa Cruz County Board of Supervisors
Urban Counties of California
Ventura County Board of Supervisors

Opposition

None on file.

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