

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON ELECTIONS

Isaac G. Bryan, Chair

SB 1061 (Laird) – As Amended May 19, 2022

SENATE VOTE: 28-9

SUBJECT: School district and community college district elections: special elections: petition requirements: election timing.

SUMMARY: Changes the timing for holding a special election to fill a vacancy on a school district or community college district governing board when the board makes a provisional appointment to fill that vacancy and the voters of the district submit sufficient signatures on a petition to terminate the appointment and order a special election. Requires the special election petition to contain the election official's estimate of the cost of conducting the special election on a per-pupil or per-student basis. Specifically, **this bill:**

- 1) Deletes provisions of existing law that require a special election to be held no later than the 130th day after the petition to terminate the provisional appointment is found sufficient, or between the 130th day and the 150th day after the petition is found sufficient if an established election date occurs during that period, and instead requires a special election to be held on the earliest occurring regularly scheduled local or state election date occurring not less than 88 days following the order of the election.
- 2) Requires the portion of the special election petition that is required to include the election official's estimate of the cost of conducting the special election to express that cost on a per-pupil or per-student basis.

EXISTING LAW:

- 1) Requires a school district or community college district governing board, if a vacancy occurs, or if a resignation has been filed with the county superintendent of schools containing a deferred effective date, within 60 days of the vacancy or the filing of the deferred resignation, to either order a special election or make a provisional appointment to fill the vacancy.
- 2) Requires a county superintendent of schools, in the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period, to order an election to fill the vacancy.
- 3) Requires the ordered election to be held on the next established election date pursuant to existing law that is not less than 130 days after the order of the election.
- 4) Provides that an appointee is immediately conferred with all powers and duties of a governing board member if a school district governing board makes a provisional appointment within the 60-day period.
- 5) Permits registered voters of the district, if a provisional appointment is made within the 60-day period, to petition for the conduct of a special election to fill the vacancy.

- 6) Requires the petition to be submitted to the county superintendent of schools having jurisdiction and requires the superintendent to verify the signatures. Provides that if the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and requires the county superintendent of schools to order a special election to be conducted no later than the 130th day after the determination. Permits the county superintendent, if an established election date occurs between the 130th day and the 150th day following the order of the election, to order the special election to be conducted on the established election date.
- 7) Requires a person appointed to fill a vacancy to hold office only until the next regularly scheduled election for district governing board members that is scheduled 130 or more days after the effective date of the vacancy, whereupon an election is held to fill the vacancy for the remainder of the unexpired term.
- 8) Requires a petition calling for a special election to meet all of the following requirements:
 - a) Requires the petition to contain the estimate by the elections official of the cost of conducting the special election.
 - b) Requires the name and residence address of at least one, but not more than five, of the proponents of the petition to appear on the petition, and requires each proponent to be a registered voter of the school district or community college district, as applicable.
 - c) Requires the petition to be prepared and circulated in conformity with existing law.
- 9) Prohibits a special election or appointment to fill a vacancy on a school district governing board if the vacancy occurs within four months of the end of the term of that position.
- 10) Prohibits a special election or provisional appointment process from applying to a vacancy on a school district governing board if the vacancy occurs, or a resignation specifying a deferred effective date is filed with the county superintendent of schools, during the period between six months and 130 days prior to a regularly scheduled governing board election and the position is not scheduled to be filled at such election. Requires the vacancy in such a case to be filled at a special election for that position to be consolidated with the regular election. Requires a person elected to fill a seat position under this provision to take office at the next regularly scheduled meeting of the governing board following the certification of the election and to serve only until the end of the term of the position which the person was elected to fill.
- 11) Provides that if a special election to fill a board vacancy could be consolidated with the next regular election for governing board members, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.
- 12) Provides that established election dates are the following:
 - a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four.
 - b) The first Tuesday after the first Monday in March of each odd-numbered year.

- c) The second Tuesday of April in each even-numbered year.
- d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four.
- e) The first Tuesday after the first Monday in November of each year.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

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

Senate Bill 1061 will make critical changes to the Education Code needed to help reduce elections costs on school and community college districts and, more importantly, on the students they serve. The bill will provide district voters and the school community with better tools to help keep election-related expenses to a minimum and give access to better information on the actual impact of the special election costs on students.

- 2) **Provisional Appointment and New Special Election Timeline:** Generally, when a vacancy occurs on a school district or community college district governing board, existing law permits the board to immediately call an election to fill the vacancy or to make a provisional appointment. If the district's governing board chooses to appoint an individual to the vacant position, existing law provides registered voters of the jurisdiction with an opportunity to challenge the appointment by collecting signatures on a petition calling for a special election to fill the vacancy. If the petition contains the required number of signatures, a special election is required to be held no later than the 130th day after that determination is made. If an established election date occurs between the 130th day and the 150th day following the determination that the petition contains sufficient signatures, however, existing law *permits* the special election to be conducted on that established election date. This bill instead *requires* the special election to be held at the earliest occurring regularly scheduled local or state election date occurring not less than 88 days following the election order.

The practical effect of this change depends on when the special election is ordered. Theoretically, the timeframe change proposed in this bill could result in the special election being held as soon as 88 days after the petition is found sufficient. While conducting a special election this soon may seem reasonable and timely, it could pose administrative challenges for elections officials, particularly for candidate filing. On the other hand, the election timing in the bill is similar to the timelines for local recall elections, which are required to be held between 88 and 125 days after the issuance of an order that the recall election be held. Furthermore, existing law permits a special election to fill the vacancy to be held even earlier than 88 days after the petition is found to be sufficient.

In contrast, because this bill removes the maximum period of time between the determination that a petition has sufficient signatures and the date of the special election, there could be situations when the vacancy remains unfilled for an extended period of time.

Despite these various timing scenarios, in general, requiring a special election to be consolidated with a regularly scheduled state or local election could significantly reduce the costs of conducting the election, and reduce the risk of a special election that has lower or less representative voter participation.

- 3) **Suggested Amendment:** As currently in print, this bill requires a special election to fill a vacancy on a school or community college district board to be held on the earliest occurring regularly scheduled local or state election date occurring not less than 88 days following the order of the election. While consolidating special vacancy elections with a regularly scheduled election usually reduces the cost of the special election, that is not always necessarily the case. Furthermore, as described in more detail above, the current version of this bill could result in a situation where a vacancy on a school or community college district board goes unfilled for a significant period of time.

In light of these issues, committee staff recommends the author and committee consider amending the bill to mirror the existing timeline for conducting a local recall election. Specifically, the committee may wish to consider an amendment to require the special election be held between 88 and 125 days after the determination that the petition contains sufficient signatures. Additionally, similar to state recall elections, committee staff recommends amending the bill to allow the special election to be held up to 180 days after the determination if doing so allows the special election to be consolidated with the next regularly scheduled election. These amendments will provide flexibility to reduce the number of standalone special elections when appropriate, while ensuring that the special election is held promptly. Additionally, these amendments will ensure the jurisdiction conducting the election has flexibility and is not restricted in their discretion on when and how to conduct the special election.

Specifically, committee staff recommends the following amendments:

On page 4, starting in line 4, amend the bill as follows:

(2) (a) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall order a special election to be conducted on the earliest occurring regularly scheduled local or state election date occurring not less than 88, nor more than 125, days following the order of the election.

(b) Notwithstanding subdivision (a), the election may be conducted within 180 days after the issuance of the order so that the election may be consolidated with a regularly scheduled election.

- 4) **Arguments in Support:** A co-sponsor of this bill, the California School Boards Association, writes:

State law provides for a process to fill vacancies on school district and community college district governing boards. When a vacancy occurs, it must be filled by the

governing board in one of two ways – either by calling for an election or by making a provisional appointment. The benefits of an appointment for a district and the students it serves are twofold: it enables the governing board to conduct its business with a full complement of members in a timelier manner and it enables a district to avoid the unplanned costs associated with a special election.

Voters are currently being asked to sign petitions that contain little useful information about the special election and its impact on students. Unfortunately, the restrictive requirements for a petition to fill a vacancy unnecessarily limit transparency for voters and make it more difficult to manage election expenses. The source of funds used to pay these costs is the very same one that supports direct student programs and district schools. For many school and community college districts, a recall can severely threaten their financial stability, with the cost of holding a special election totaling a significant percentage of their annual budget. By requiring only the total estimated election costs to appear on the petition, current law limits critical information voters need to consider how the elections costs will affect funding for student programs.

One of the most effective options available to a district to minimize elections costs is to combine the special election with another state or local election. However, current law only allows a narrow window for this to happen. A special election must be held no later than 130 days after the petition is determined to be sufficient and may be combined with a regularly scheduled election up to 150 days following the order of the election. This limited timeframe prevents many districts from reducing their total elections costs by more than half by placing the special election on a ballot with another local or state scheduled to occur after the period authorized in law.

- 5) **Related Legislation:** AB 2584 (Berman) permits a recall election to be conducted within 180 days after the issuance of the order of the election if doing so would allow the election to be consolidated with a regularly scheduled election, and requires each page of a recall petition for the recall of a member of the governing board of a school district to include the estimate of the county elections official, in consultation with the school district, of the cost of conducting the special election, among other provisions. AB 2584 passed out of this committee on a 5-1 vote, was approved by the Assembly on a 54-19 vote, and is pending in the Senate Elections & Constitutional Amendments Committee.
- 6) **Previous Legislation:** AB 2195 (Ashburn) of 2000 would have required, in districts with fewer than 30,000 registered voters, a petition for a special election to challenge a provisional appointment to fill a vacancy to be signed by at least 5% of the number of registered voters of the district at the time of the last regular election for governing board members. AB 2195 was not heard by a committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Boards Association (co-sponsor)
Small School Districts Association (co-sponsor)

Association of California School Administrators
California County Superintendents Educational Services Association (prior version)
Santa Clara County Office of Education (prior version)

Opposition

One individual

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