

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2760

Introduced by Assembly Member Simitian

February 25, 2002

An act to amend Sections 10702 and 10703 of, and to add Chapter 3 (commencing with Section 10730) to Part 6 of Division 10 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2760, as amended, Simitian. Elections: special elections.

Existing law provides procedures for special elections to fill vacancies in congressional offices. These procedures provide for the issuance of a gubernatorial proclamation calling for a special election, the nomination of candidates, the setting of a date for a special primary election, and, if no candidate receives a majority of the votes cast, the setting of a date for a special general election.

This bill would ~~state the intent of the Legislature, in the aftermath of the terrorist attacks of September 11, 2001, to ensure the continuity of the United States Congress by providing~~ *provide* procedures for expedited special elections to fill vacancies *in congressional offices caused by a natural or man-made catastrophe in which 25% that results in the death or disappearance, as defined, of at least 1/4 of the total membership of the United States Congress House of Representatives, including any number of California Representatives, or 25% at least 1/4 of the total membership of the California congressional delegation are killed, missing, or disabled.* It would require the Governor to issue a proclamation within 7 days of the catastrophe calling for a special

election to fill a vacancy on a Tuesday at least 56 days, but not more than 63 days, following the issuance of the proclamation, as specified.

This bill, by increasing the duties of local election officials, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature, in the aftermath~~
2 ~~of the terrorist attacks of September 11, 2001, to ensure the~~
3 ~~continuity of the United States Congress by providing procedures~~
4 ~~for expedited special elections to fill vacancies in the event of a~~
5 ~~catastrophe in which 25 percent of the membership of the United~~
6 ~~States Congress or 25 percent of the membership of the California~~
7 ~~congressional delegation are killed, missing, or disabled.~~

8 SECTION 1. Section 10702 of the Elections Code is amended
9 to read:

10 10702. ~~Candidates~~ Except as provided by Chapter 3
11 (commencing with Section 10730), this chapter provides the
12 procedures for nomination and election of candidates at any
13 special election to fill a vacancy in the office of Representative in
14 Congress, State Senator, or Member of the Assembly ~~shall be~~
15 ~~nominated as provided in this chapter.~~

16 SEC. 2. Section 10703 of the Elections Code is amended to
17 read:

18 10703. (a) A special election to fill a vacancy in the office of
19 Representative in Congress, State Senator, or Member of
20 Assembly shall be conducted on a Tuesday at least 112 days, but

not more than 119 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that any special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

(b) ~~In no event may~~ Except as provided in Chapter 3 (commencing with Section 10730), a special election or a primary election may not be conducted on the day after a state holiday.

SEC. 3. Chapter 3 (commencing with Section 10730) is added to Part 6 of Division 10 of the Elections Code, to read:

CHAPTER 3. VACANCIES IN CONGRESSIONAL OFFICES CAUSED BY
CATASTROPHE

10730. (a) This chapter provides the procedures for nomination and election of candidates at a special election to fill vacancies in the House of Representatives caused by a catastrophe.

(b) The procedures provided by Chapter 1 (commencing with Section 10700) shall apply to special elections to the extent those provisions are not inconsistent with this chapter.

10731. For purposes of this chapter:

(a) "Catastrophe" means a natural or man-made event that causes a vacancy in at least one-fourth of the total number of offices of the United States House of Representatives, including any number of offices representing California, or at least one-fourth of the total number of offices representing California.

(b) "Vacancy" means the death or disappearance, as a result of a catastrophe, of a Representative in Congress.

(c) "Disappearance" means the inability to establish conclusively whether a Representative in Congress has survived a catastrophe.

10732. Within seven calendar days of a catastrophe, the Governor shall issue a proclamation calling a special election pursuant to Section 10703.

1 10733. *In the event of a catastrophe, a special election to fill*
2 *a vacancy in the office of Representative in Congress shall be*
3 *conducted on a Tuesday at least 56 days, but not more than 63*
4 *days, following the issuance of an election proclamation by the*
5 *Governor; except that any special election may be conducted*
6 *within 90 days following the proclamation in order that the*
7 *election or the primary election may be consolidated with the next*
8 *regularly scheduled statewide election or local election occurring*
9 *wholly or partially within the same territory in which the vacancy*
10 *exists, provided that the voters eligible to vote in the local election*
11 *comprise at least 50 percent of all the voters eligible to vote on the*
12 *vacancy.*

13 10734. (a) *No special primary election shall be held.*
14 *Candidates at the special general election shall be nominated in*
15 *the manner set forth in Chapter 1 (commencing with Section 8000)*
16 *of Part 1 of Division 8, except that nomination papers shall not be*
17 *circulated more than 28 days before the primary election, shall be*
18 *left with the county elections official for examination not less than*
19 *28 days before the primary election, and shall be filed with the*
20 *Secretary of State not less than 28 days before the primary election.*

21 (b) *Notwithstanding Section 3001, applications for absent*
22 *voter ballots may be submitted not more than 28 days before the*
23 *primary election, except that Section 3001 shall apply if the special*
24 *election or special primary election is consolidated with a*
25 *statewide election. Applications received by the elections official*
26 *prior to the 28th day shall not be returned to the sender, but shall*
27 *be held by the elections official and processed by him or her*
28 *following the 28th day prior to the election in the same manner as*
29 *if received at that time.*

30 SEC. 4. *Notwithstanding Section 17610 of the Government*
31 *Code, if the Commission on State Mandates determines that this*
32 *act contains costs mandated by the state, reimbursement to local*
33 *agencies and school districts for those costs shall be made*
34 *pursuant to Part 7 (commencing with Section 17500) of Division*
35 *4 of Title 2 of the Government Code. If the statewide cost of the*
36 *claim for reimbursement does not exceed one million dollars*
37 *(\$1,000,000), reimbursement shall be made from the State*
38 *Mandates Claims Fund.*

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