

## **Assembly Bill No. 2760**

### **CHAPTER 658**

An act to amend Sections 10700, 10702, and 10703 of, and to add Chapter 3 (commencing with Section 10730) to Part 6 of Division 10 of, the Elections Code, and to add Section 1773.5 to the Government Code, relating to elections.

[Approved by Governor September 17, 2002. Filed  
with Secretary of State September 18, 2002.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**AB 2760, 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 provide procedures for expedited special elections to fill vacancies in congressional offices caused by a natural or manmade catastrophe that results in the death or disappearance, as defined, of at least  $\frac{1}{4}$  of the total membership of the United States House of Representatives, including any number of California Representatives, or at least  $\frac{1}{4}$  of the total membership of the California congressional delegation. 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.

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

SECTION 1. Section 10700 of the Elections Code is amended to read:

10700. The Governor shall call all statewide special elections by issuing a proclamation pursuant to Section 12000. Except as provided by Chapter 3 (commencing with Section 10730), in the case of a vacancy in a congressional or legislative office the Governor shall issue a proclamation, within 14 calendar days of the occurrence of the vacancy, calling a special election in accordance with Section 10703. A copy of the proclamation shall be sent to the board of supervisors of each affected county.

SEC. 2. Section 10702 of the Elections Code is amended to read:

10702. Except as provided by Chapter 3 (commencing with Section 10730), this chapter provides the procedures for nomination and election of candidates at any special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly.

SEC. 3. Section 10703 of the Elections Code is amended to read:

10703. (a) A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of 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) 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. 4. 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.

10733. In the event of a catastrophe, a special election to fill a vacancy in the office of Representative in Congress shall be conducted on a Tuesday at least 56 days, but not more than 63 days, following the issuance of an election proclamation by the Governor, except that any special election may be conducted within 90 days following the proclamation in order that the special 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.

10734. (a) No special primary election shall be held. Candidates at the special general election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 46 days before the special general election, shall be left with the county elections official for examination not less than 32 days before the special general election, and shall be filed with the Secretary of State not less than 28 days before the special general election.

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



SEC. 5. Section 1773.5 is added to the Government Code, to read:

1773.5. In addition to any other applicable provision of law, a vacancy occurs in the office of Representative in Congress in the event of his or her disappearance, as defined in subdivision (c) of Section 10731 of the Elections Code.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

