

AMENDED IN SENATE APRIL 24, 2012

SENATE BILL

No. 1275

Introduced by Senator Lieu
(Coauthor: Senator La Malfa)

February 23, 2012

An act to amend Sections 10703 and 10704 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1275, as amended, Lieu. Vacancies in office: special elections.

Existing law requires the Governor to issue a proclamation calling a special election to fill a vacancy in the office of Representative in Congress or either house of the Legislature within 14 days of when the vacancy occurs. Existing law requires that a special general election be conducted to fill the vacancy on a Tuesday at least 112 days, but not more than 126 days, following the issuance of the election proclamation. Existing law requires that a special primary election be conducted on a Tuesday either 8 or 9 weeks prior to the date of the special general election, as specified. Existing law imposes deadlines relating to the filing of nomination papers for a candidate in a special primary election, as specified. Existing law also imposes deadlines for submitting an application for a vote by mail ballot in a special election.

This bill would, instead, require that the special general election occur at least 126 days, but not more than 140 days, after the issuance of the election proclamation. In addition, this bill would require that the special primary election be conducted on a Tuesday either 9 or 10 weeks prior to the date of the special general election, as specified. This bill would also revise the deadlines relating to the filing of nomination papers for a candidate in a special primary election. The bill would require that

an application for a vote by mail ballot in a special election be made in the same manner as for a regular election.

By imposing new duties or higher levels of service on local elections officials, this bill 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.

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: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 10703 of the Elections Code is amended
2 to read:

3 10703. (a) A special election to fill a vacancy in the office of
4 Representative in Congress, State Senator, or Member of the
5 Assembly shall be conducted on a Tuesday at least 126 days, but
6 not more than 140 days, following the issuance of an election
7 proclamation by the Governor pursuant to Section 1773 of the
8 Government Code, except that the special election may be
9 conducted within 180 days following the proclamation in order
10 that the election or the primary election may be consolidated with
11 the next regularly scheduled statewide election or local election
12 occurring wholly or partially within the same territory in which
13 the vacancy exists, provided that the voters eligible to vote in the
14 local election comprise at least 50 percent of all the voters eligible
15 to vote on the vacancy.

16 (b) Except as provided in Chapter 3 (commencing with Section
17 10730), a special election or a primary election may not be
18 conducted on the day after a state holiday.

19 ~~SEC. 2. Section 10704 of the Elections Code is amended to~~
20 ~~read:~~

21 ~~10704. (a) Except as provided in subdivision (b), a special~~
22 ~~primary election shall be held in the district in which the vacancy~~
23 ~~occurred on the ninth Tuesday or, if the ninth Tuesday is the day~~
24 ~~of or the day following a state holiday, the 10th Tuesday preceding~~

1 the day of the special general election at which the vacancy is to
2 be filled. Candidates at the primary election shall be nominated in
3 the manner set forth in Chapter 1 (commencing with Section 8000)
4 of Part 1 of Division 8, except that nomination papers shall not be
5 circulated more than 65 days before the primary election, shall be
6 left with the county elections official for examination not less than
7 53 days before the primary election, and shall be filed with the
8 Secretary of State not less than 53 days before the primary election.

9 (b) A special primary election shall be held in the district in
10 which the vacancy occurred on the 10th Tuesday preceding the
11 day of the special general election at which the vacancy is to be
12 filled if both of the following conditions apply:

13 (1) The 10th Tuesday preceding the day of the special general
14 election is an established election date pursuant to Section 1000.

15 (2) A statewide or local election occurring wholly or partially
16 within the same territory in which the vacancy exists is scheduled
17 for the 10th Tuesday preceding the day of the special general
18 election.

19 (e) An application for a vote by mail ballot for a special election
20 shall be made and processed in the manner required by Section
21 3001.

22 *SEC. 2. Section 10704 of the Elections Code is amended to*
23 *read:*

24 10704. (a) Except as provided in subdivision (b), a special
25 primary election shall be held in the district in which the vacancy
26 occurred on the ~~eight~~ *ninth* Tuesday or, if the ~~eight~~ *ninth* Tuesday
27 is the day of or the day following a state holiday, the ~~ninth~~ *10th*
28 Tuesday preceding the day of the special general election at which
29 the vacancy is to be filled. Candidates at the primary election shall
30 be nominated in the manner set forth in Chapter 1 (commencing
31 with Section 8000) of Part 1 of Division 8, except that nomination
32 papers shall not be circulated more than ~~63~~ *73* days before the
33 primary election, shall be left with the county elections official for
34 examination not less than ~~43~~ *53* days before the primary election,
35 and shall be filed with the Secretary of State not less than ~~39~~ *53*
36 days before the primary election.

37 (b) A special primary election shall be held in the district in
38 which the vacancy occurred on the ~~ninth~~ *10th* Tuesday preceding
39 the day of the special general election at which the vacancy is to
40 be filled if both of the following conditions apply:

1 (1) The ~~ninth~~ 10th Tuesday preceding the day of the special
2 general election is an established election date pursuant to Section
3 1000.

4 (2) A statewide or local election occurring wholly or partially
5 within the same territory in which the vacancy exists is scheduled
6 for the ~~ninth~~ 10th Tuesday preceding the day of the special general
7 election.

8 ~~(e) Notwithstanding Section 3001, applications for vote by mail~~
9 ~~voter ballots may be submitted not more than 25 days before the~~
10 ~~primary election, except that Section 3001 shall apply if the special~~
11 ~~election or special primary election is consolidated with a statewide~~
12 ~~election. Applications received by the elections official prior to~~
13 ~~the 25th day shall not be returned to the sender, but shall be held~~
14 ~~by the elections official and processed by him or her following the~~
15 ~~25th day prior to the election in the same manner as if received at~~
16 ~~that time.~~

17 *(c) An application for a vote by mail ballot for a special election*
18 *shall be made and processed in the manner required by Section*
19 *3001.*

20 (d) The sample ballot for a special election shall contain a
21 written explanation of the election procedure for voter-nominated
22 office as specified in subdivision (b) of Section 9083.5.
23 Immediately after the explanation shall be printed the following:
24 “If one candidate receives more than 50% of the votes cast at the
25 special primary election, he or she will be elected to fill the vacancy
26 and no special general election will be held.”

27 (e) On the ballot for a special election, immediately below the
28 instructions to voters, there shall be a box not less than one-half
29 inch high enclosed by a heavy-ruled line the same as the borderline.
30 This box shall be as long as there are columns for the ballot and
31 shall be set directly above these columns. Within the box shall be
32 printed the words “Voter-Nominated Office.” Immediately below
33 that phrase within the same box shall be printed the following:

34 “All voters, regardless of the party preference they disclosed
35 upon registration, or refusal to disclose a party preference, may
36 vote for any candidate for a voter-nominated office. The party
37 preference, if any, designated by a candidate is selected by the
38 candidate and is shown for the information of the voters only. It
39 does not imply that the candidate is nominated or endorsed by the
40 party or that the party approves of the candidate.”

1 SEC. 3. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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