

AMENDED IN ASSEMBLY APRIL 20, 2015

AMENDED IN ASSEMBLY APRIL 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 952

Introduced by Assembly Member Cristina Garcia

February 26, 2015

An act to amend Section 36512 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 952, as amended, Cristina Garcia. Local government: vacancies.

Existing law requires a city council, within 60 days of a vacancy in an elective office, to fill that vacancy by appointment or call a special election to fill the vacancy, and provides that a person elected or appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

This bill would instead provide that if the council fills a vacancy in an elective office by appointment, and that vacancy occurred in the first half of the term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy holds office until the next general municipal election at which a person is elected to fill that vacancy, and thereafter, until the person elected is qualified. The bill would additionally provide that if the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of the term of office, the person appointed to fill the vacancy holds office for the unexpired term of the former incumbent.

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

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

1 SECTION 1. Section 36512 of the Government Code is
2 amended to read:

3 36512. (a) If a vacancy occurs in an appointive office provided
4 for in this chapter, the council shall fill the vacancy by
5 appointment. A person appointed to fill a vacancy holds office for
6 the unexpired term of the former incumbent.

7 (b) If a vacancy occurs in an elective office provided for in this
8 chapter, the council shall, within 60 days from the commencement
9 of the vacancy, either fill the vacancy by appointment or call a
10 special election to fill the vacancy.

11 (1) If the council calls a special election, the special election
12 shall be held on the next regularly established election date not
13 less than 114 days from the call of the special election. A person
14 elected to fill a vacancy holds office for the unexpired term of the
15 former incumbent.

16 (2) If the council fills the vacancy by appointment, the person
17 appointed to fill the vacancy shall hold office pursuant to one of
18 the following:

19 (A) If the vacancy occurs in the first half of a term of office and
20 at least 130 days prior to the next general municipal election, the
21 person appointed to fill the vacancy shall hold office until the next
22 general municipal election that is scheduled 130 or more days after
23 the date the council is notified of the vacancy, and thereafter until
24 the person who is elected at that election to fill the vacancy has
25 been qualified. The person elected to fill the vacancy shall hold
26 office for the unexpired balance of the term of office.

27 (B) If the vacancy occurs in the first half of a term of office,
28 but less than 130 days prior to the next general municipal election,
29 or if the vacancy occurs in the second half of a term of office, the
30 person appointed to fill the vacancy shall hold office for the
31 unexpired term of the former incumbent.

32 (c) Notwithstanding subdivision (b) and Section 34902, a city
33 may enact an ordinance that does any of the following:

34 (1) Requires that a special election be called immediately to fill
35 every city council vacancy and the office of mayor designated

1 pursuant to Section 34902. The ordinance shall provide that the
2 special election shall be held on the next regularly established
3 election date not less than 114 days from the call of the special
4 election.

5 (2) Requires that a special election be held to fill a city council
6 vacancy and the office of mayor designated pursuant to Section
7 34902 when petitions bearing a specified number of verified
8 signatures are filed. The ordinance shall provide that the special
9 election shall be held on the next regularly established election
10 date not less than 114 days from the filing of the petition. A
11 governing body that has enacted such an ordinance may also call
12 a special election pursuant to subdivision (b) without waiting for
13 the filing of a petition.

14 (3) Provides that a person appointed to fill a vacancy on the city
15 council holds office only until the date of a special election which
16 shall immediately be called to fill the remainder of the ~~term or~~
17 ~~until the next regularly scheduled citywide election.~~ *term*. The
18 special election may be held on the date of the next regularly
19 established election or regularly scheduled municipal election to
20 be held throughout the city not less than 114 days from the call of
21 the special election.

22 (d) (1) Notwithstanding subdivision (b) and Section 34902, an
23 appointment shall not be made to fill a vacancy on a city council
24 if the appointment would result in a majority of the members
25 serving on the council having been appointed. The vacancy shall
26 be filled in the manner provided by this subdivision.

27 (2) The city council may call an election to fill the vacancy, to
28 be held on the next regularly established election date not less than
29 114 days after the call.

30 (3) If the city council does not call an election pursuant to
31 paragraph (2), the vacancy shall be filled at the next regularly
32 established election date.

33 (e) (1) If the city council of a city that elects city council
34 members by or from districts elects to fill a vacancy on the city
35 council by appointment as a result of a city council member
36 resigning from office, the resigning city council member may cast
37 a vote on the appointment if the resignation will go into effect
38 upon the appointment of a successor. A city council member shall
39 not cast a vote for a family member or any other person with whom

1 the city council member has a relationship that may create a
2 potential conflict of interest.

3 (2) If a city council member elects to cast a vote under this
4 subdivision, the city council member shall be prohibited from the
5 following actions for a period of two years after the appointment
6 of a successor:

7 (A) Advocating on any measure or issue coming before the city
8 council in which the city council member may have a personal
9 benefit.

10 (B) Entering into a contract of any kind with the city or a city
11 vendor.

12 (C) Accepting a position of employment with the city or a city
13 vendor.

14 (D) Applying for a permit that is subject to the approval of the
15 city council.

16 (3) This subdivision shall not apply to any city council member
17 who is resigning from the city council due to charges of, or
18 conviction for, corruption or criminal behavior, or who is subject
19 to a recall election.