

AMENDED IN ASSEMBLY MARCH 17, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 18

Introduced by Assembly Member Knight

December 1, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as amended, Knight. Local government: city councils.

Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

This bill would authorize the city council *of a city that elects its city council members at-large* to leave a seat on the city council vacant for up to one year, *or for cities that elect seats on the city council by district for up to 6 months*, or until the next general election, whichever comes first, if the remaining city council members cannot agree upon an appropriate appointee and the remaining city council members can still form a quorum, as specified.

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. The Legislature finds and declares that the
- 2 administration of a special election to fill a vacant position on a
- 3 city council often results in a large and sometimes unnecessary
- 4 financial burden on the citizens of the affected city.

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

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

(b) (1) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 30 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(2) (A) Notwithstanding paragraph (1), *in the case of a city that elects its council members at-large* if a seat on the city council becomes vacant and the remaining city council members are unable to reach a consensus on an appropriate appointee, the city council may leave that seat unfilled until either the next general election or for up to one year from the commencement of the vacancy, whichever occurs first, so long as a quorum can be reached without filling the vacant seat.

(B) *Notwithstanding paragraphs (1), in the case of a city that elects seats on the city council by district, if a seat on the city council becomes vacant and the remaining city council members are unable to reach a consensus on an appropriate appointee, the city council may leave that seat unfilled until either the next general election or for up to six months from the commencement of the vacancy, whichever occurs first, so long as a quorum can be reached without filling the vacant seat.*

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

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section

1 34902 when petitions bearing a specified number of verified
2 signatures are filed. The ordinance shall provide that the special
3 election shall be held on the next regularly established election
4 date not less than 114 days from the filing of the petition. A
5 governing body that has enacted such an ordinance may also call
6 a special election pursuant to subdivision (b) without waiting for
7 the filing of a petition.

8 (3) Provides that a person appointed to fill a vacancy on the city
9 council holds office only until the date of a special election which
10 shall immediately be called to fill the remainder of the term. The
11 special election may be held on the date of the next regularly
12 established election or regularly scheduled municipal election to
13 be held throughout the city not less than 114 days from the call of
14 the special election.

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

20 (2) The city council may call an election to fill the vacancy, to
21 be held on the next regularly established election date not less than
22 114 days after the call.

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