

AMENDED IN SENATE AUGUST 18, 2009

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

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 Sections ~~34902 and 36512~~ 34902, 36512, 57377, and 57379 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing

(1) *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 require the city council to, within 60 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

(2) *Existing* law specifies the procedures for election of, and terms of office for, city council members and elective officers following an incorporation of a city.

This bill would revise the initial terms of office for city council members and elective officers following an incorporation of a city.

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.

5 SEC. 2. Section 34902 of the Government Code is amended
6 to read:

7 34902. (a) If a majority of the votes cast on the proposition is
8 for it, the office of mayor shall thereafter be an elective office,
9 except as provided in subdivision (b). At the next succeeding
10 general municipal election held in the city one of the offices of
11 city councilperson, to be filled at the election, shall be designated
12 as the office of mayor, to be filled at the election. The person
13 elected at the election as mayor shall hold office from the Tuesday
14 succeeding his or her election, and until his or her successor is
15 elected and qualifies.

16 In the case of a vacancy in the office of the mayor for any reason,
17 the council shall fill the vacancy by appointment. If the council
18 fails to fill it within 60 days, it shall call an election to fill the
19 vacancy to be held on the next established election date to be held
20 not less than 114 days thereafter. A person appointed or elected
21 to fill a vacancy shall hold office for the unexpired term of the
22 former incumbent.

23 (b) After an office of elective mayor has been established, the
24 city council may subsequently submit to the electors the question
25 of whether or not to eliminate the elective office of mayor, pursuant
26 to the procedures enumerated in this article, and thereby reestablish
27 the procedure of selection of the mayor by the city council. If a
28 majority of the votes cast on the proposition are in favor of the
29 elimination of the office of elective mayor, the office shall be
30 eliminated on the expiration date of the incumbent's term, and on
31 the date the procedure of selection of the mayor by the city council
32 shall be reestablished.

33 SEC. 3. Section 36512 of the Government Code is amended
34 to read:

35 36512. (a) If a vacancy occurs in an appointive office provided
36 for in this chapter, the council shall fill the vacancy by
37 appointment. A person appointed to fill a vacancy holds office for
38 the unexpired term of the former incumbent.

1 (b) If a vacancy occurs in an elective office provided for in this
2 chapter, the council shall, within 60 days from the commencement
3 of the vacancy, either fill the vacancy by appointment or call a
4 special election to fill the vacancy. The special election shall be
5 held on the next regularly established election date not less than
6 114 days from the call of the special election. A person appointed
7 or elected to fill a vacancy holds office for the unexpired term of
8 the former incumbent.

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

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

17 (2) Requires that a special election be held to fill a city council
18 vacancy and the office of mayor designated pursuant to Section
19 34902 when petitions bearing a specified number of verified
20 signatures are filed. The ordinance shall provide that the special
21 election shall be held on the next regularly established election
22 date not less than 114 days from the filing of the petition. A
23 governing body that has enacted such an ordinance may also call
24 a special election pursuant to subdivision (b) without waiting for
25 the filing of a petition.

26 (3) Provides that a person appointed to fill a vacancy on the city
27 council holds office only until the date of a special election which
28 shall immediately be called to fill the remainder of the term. The
29 special election may be held on the date of the next regularly
30 established election or regularly scheduled municipal election to
31 be held throughout the city not less than 114 days from the call of
32 the special election.

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

38 (2) The city council may call an election to fill the vacancy, to
39 be held on the next regularly established election date not less than
40 114 days after the call.

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

SEC. 4. Section 57377 of the Government Code is amended to read:

57377. Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the ~~three~~ *two* receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the ~~two~~ *three* receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

SEC. 5. Section 57379 of the Government Code is amended to read:

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the ~~three~~ *two* receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified, and the ~~two~~ *three* receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified.

The first general municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled.

In the event that, pursuant to Section 56727, the first election for city council members was held after the election on the

- 1 incorporation proposal, the term “incorporation election” in this
- 2 section means the first election for city council members.

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