

AMENDED IN SENATE MAY 5, 2010
AMENDED IN SENATE APRIL 28, 2010

SENATE BILL

No. 1346

Introduced by Senator Hancock

February 19, 2010

An act to add Sections 10708, 10709, 10710, 10711, ~~and~~ 10712, *and* 10713 to the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1346, as amended, Hancock. Special legislative or congressional election: instant runoff voting.

Existing law requires the Governor to call a special election to fill a vacancy in a congressional or legislative office within 14 calendar days of the occurrence of the vacancy and provides that all candidates be listed on the ballot and, if any candidate receives a majority of all votes cast, he or she shall be declared elected. If a candidate does not receive a majority of all votes cast, the names of the candidates receiving the most votes representing a qualified political party are placed on the special general election ballot as that party's candidate. Under existing law, the special primary and the special general elections are required to be conducted within specified time periods.

This bill would instead authorize the board of supervisors of a county or counties affected by a vacancy in the office of United States Representative in Congress, State Senator, or Member of the Assembly, if certified by the Secretary of State, to make a determination to fill the vacancy using an optional, prescribed instant runoff voting method, except that if 2 or more counties are affected, all affected counties would have to agree to use the instant runoff voting method.

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

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

1 SECTION 1. Section 10708 is added to the Elections Code, to
2 read:

3 10708. (a) The board of supervisors of an affected county may
4 determine during a public hearing whether to fill a vacancy in the
5 office of United States Representative in Congress, State Senate,
6 or Member of the Assembly pursuant to either of the following
7 methods:

8 (1) Pursuant to Sections 10701, 10702, 10703, 10704, 10705,
9 10706, and 10707.

10 (2) Pursuant to Sections 10701; *and* 10702, *subdivision (b) of*
11 *Section 10703, and Sections 10707, 10708, 10709, 10710, 10711,*
12 *and 10712, and 10713,* if the county has received certification
13 from the Secretary of State in accordance with subdivision (c).

14 (b) If neither option in subdivision (a) is approved by a majority
15 of an affected county's board of supervisors, a quorum being
16 present, then the vacancy shall be filled pursuant to paragraph (1)
17 of subdivision (a). If two or more counties are affected by the
18 vacancy, the vacancy shall be filled pursuant to paragraph (1) of
19 subdivision (b), unless all affected counties determine through
20 their respective boards of supervisors, in accordance with the
21 procedure set forth above, to fill the vacancy pursuant to paragraph
22 (2) of subdivision (a).

23 (c) In order for a county or counties to participate in the special
24 election option set forth in paragraph (2) of subdivision (a), the
25 county or counties affected by the vacancy shall first have been
26 certified by the Secretary of State as having satisfactory plans and
27 equipment in place, including an agreement, *if necessary*, between
28 multicounty districts, to conduct an election under those provisions.

29 SEC. 2. Section 10709 is added to the Elections Code, to read:

30 10709. (a) If authorized pursuant to paragraph (2) of
31 subdivision (b) of Section 10700, special elections to fill a vacancy
32 in the offices of United States Representative in Congress, State
33 Senator, and Member of the Assembly shall be conducted using
34 "instant runoff voting," also known as "ranked choice voting."

35 (b) As used in this chapter, the following definitions apply:

1 (1) “Instant runoff voting” means an election method in which
2 voters rank the candidates for office in order of preference, and
3 the ballots are counted in rounds that, in the case of a single-winner
4 election, simulate a series of runoffs until one candidate receives
5 a majority of votes.

6 (2) In each round of counting the following definitions apply:

7 (A) “Continuing ballot” means a ballot that counts toward some
8 candidate.

9 (B) “Continuing candidate” means a candidate that has not been
10 eliminated.

11 (C) “Majority of votes” means more than 50 percent of the votes
12 coming from continuing ballots.

13 (c) Instant runoff voting for special elections to fill a vacancy
14 in the offices of United States Representative in Congress, State
15 Senator, and Member of the Assembly shall be conducted
16 according to the procedures set forth in this section. Every affected
17 county shall conduct a voter education and outreach campaign to
18 familiarize voters with instant runoff voting in every language in
19 which a ballot is made available to voters in the county. These
20 efforts shall include public service announcements in radio,
21 television, direct mail, telephone, or print media that are
22 disseminated in a manner consistent with the language assistance
23 requirements of the federal Voting Rights Act of 1965 (42 U.S.C.
24 Sec. 1973aa-1).

25 (d) The instant runoff voting ballot shall allow voters to rank
26 as many choices as there are candidates. The ballot shall not
27 interfere with a voter’s ability to rank a write-in candidate. For the
28 purposes of this section, a mark for an unqualified write-in
29 candidate shall not be considered a mark for a candidate.

30 (e) The method of voting and counting ballots shall be conducted
31 by using rounds in the following manner:

32 (1) In the first round, every ballot shall count as a vote toward
33 the first-choice candidate on that ballot.

34 (2) After every round, if any candidate receives a majority of
35 votes from the continuing ballots, that candidate shall be declared
36 the winner.

37 (3) If no candidate receives a majority, the candidate receiving
38 the smallest number of votes shall be eliminated, and every ballot
39 counting toward that candidate shall be advanced to the next-ranked
40 continuing candidate on the ballot. If there is a tie between two or

1 more candidates for the smallest number of votes, the tie shall be
2 resolved by lot. All the ballots shall be counted again in a new
3 round.

4 (f) During the elimination stage of any round, in the event that
5 any candidate has more votes than the combined vote total of all
6 candidates with fewer votes, all the candidates with fewer votes
7 shall be eliminated simultaneously, and those ballots advanced to
8 the next-ranked continuing candidate.

9 (g) Skipped rankings. In the first or any round, in the event that
10 any ballot reaches a ranking with no candidate indicated, that ballot
11 shall immediately be advanced to the next ranking.

12 (h) After each round, any ballot that is not continuing is either
13 an undervote, overvote, or exhausted ballot, as follows:

14 (1) Any ballot that has no candidates indicated at any ranking
15 shall be declared an “undervote.”

16 (2) In the event that any ballot reaches a ranking with more than
17 one candidate indicated, that ballot shall immediately be declared
18 an “overvote.”

19 (3) In the event that any ballot cannot be advanced because no
20 further candidates are ranked on that ballot, that ballot shall
21 immediately be declared “exhausted.”

22 (4) Any ballot that has been declared an undervote, overvote,
23 or exhausted shall remain so and shall not count toward any
24 candidate in that round or in subsequent rounds.

25 (i) Summary, ballot image, and comprehensive reports shall be
26 made available after each instant runoff voting election, as follows:

27 (1) The “summary report” for an election means a report that
28 lists the candidate vote totals in each round, along with the
29 cumulative numbers of undervotes, overvotes, and exhausted
30 ballots in each round.

31 (2) The “ballot image report” for an election means a report that
32 lists, for each ballot, the candidate or candidates indicated at each
33 ranking, the precinct of the ballot, and whether the ballot was cast
34 absentee. In the report, the ballots shall be listed in an order that
35 does not permit the order in which they were cast in each precinct
36 to be reconstructed.

37 (3) The “comprehensive report” for an election means a report
38 that breaks the numbers in the summary report down by precinct.
39 The report shall list, for each round, the number of ballots cast in
40 each precinct as follows:

1 (A) Ballots that count as votes for each candidate in that round.

2 (B) Ballots that have been declared undervotes.

3 (C) Ballots that have been declared overvotes up to that point.

4 (D) Ballots that have been declared exhausted up to that point.

5 (4) Preliminary versions of the summary report and ballot image
6 report shall be made available as soon as possible after the ballots
7 have begun to be processed and counted. The summary report,
8 ballot image report, comprehensive report, and preliminary versions
9 of the summary report and ballot image report shall be made
10 available to the public during the canvass via the Internet and by
11 other means. The ballot image report and preliminary versions of
12 the ballot image report shall be made available in a plain text
13 electronic format.

14 (j) Prior to the selection of precincts for the public postelection
15 manual tally, as provided by state law, a report shall be made
16 available to the public that lists, for the ballots subject to the
17 manual tally, the number of those ballots in each precinct that
18 counted in each round as undervotes, overvotes, exhausted ballots,
19 and as votes for each candidate. The public manual tally shall
20 check those vote totals in each of the randomly selected precincts.

21 (k) (1) For the purposes of this subdivision, “voting equipment”
22 means all ballots or voting devices, vote tabulating systems, or
23 similar or related systems to be used in the conduct of the instant
24 runoff voting election, including, but not limited to, paper ballot
25 systems, optical scan systems, and touch-screen systems.

26 (2) In the event that the voting equipment cannot feasibly
27 accommodate a number of rankings on the ballot equal to the
28 number of candidates, the Secretary of State may limit the number
29 of choices a voter may rank to the maximum number allowed by
30 the equipment. This limit shall never be less than three.

31 SEC. 3. Section 10710 is added to the Elections Code, to read:

32 10710. Candidates at the instant runoff voting special election
33 shall be nominated in the manner set forth in Chapter 1
34 (commencing with Section 8000) of Part 1 of Division 8, except
35 that nomination papers shall not be circulated more than 63 days
36 before the instant runoff voting special election, shall be left with
37 the county elections official for examination not less than 43 days
38 before the instant runoff voting special election, and shall be filed
39 with the Secretary of State not less than 39 days before the instant
40 runoff voting special election.

1 SEC. 4. Section 10711 is added to the Elections Code, to read:
2 10711. Notwithstanding Section 3001, applications for vote
3 by mail ballots may be submitted not more than 25 days before
4 the instant runoff voting special election, except that Section 3001
5 shall apply if the instant runoff voting special election is
6 consolidated with a statewide election. Applications received by
7 the elections official prior to the 25th day shall not be returned to
8 the sender, but shall be held by the elections official and processed
9 by him or her following the 25th day prior to the election in the
10 same manner as if received at that time.

11 SEC. 5. Section 10712 is added to the Elections Code, to read:
12 10712. All candidates shall be listed on one ballot.

13 SEC. 6. Section 10713 is added to the Elections Code, to read:

14 10713. *An instant runoff voting special election authorized*
15 *pursuant to this chapter shall be held on a Tuesday at least 72*
16 *days, but not more than 86 days, following the issuance of an*
17 *election proclamation by the Governor pursuant to Section 10700,*
18 *except that any special election may be conducted within 120 days*
19 *following the proclamation in order that the instant runoff voting*
20 *election may be consolidated with the next regularly scheduled*
21 *statewide election or local election occurring wholly or partially*
22 *within the same territory in which the vacancy exists, provided*
23 *that the voters eligible to vote in the local election comprise at*
24 *least 50 percent of all the voters eligible to vote on the vacancy.*