



1-1-1995

Elections

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Elections*, 26 PAC. L. J. 533 (1995).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol26/iss2/25>

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Elections

Elections; recall elections—municipalities

Elections Code §§ 27311, 27316.1, 27330, 27331, 27332, 27333, 27334, 27340 (repealed); § 27312 (amended).
AB 2219 (Horcher); 1994 STAT. Ch. 79

Under existing law, elections to recall public officers other than officers of a landowner voting district must include the nomination of candidates to succeed a recalled officer.¹ In the event that an officer is recalled, existing law provides that the candidate receiving the highest number of votes for the office will be declared elected for the unexpired term of the recalled officer.² Prior law contained different provisions for the recall of city officials.³ Chapter 79 repeals recall election procedures applicable specifically to city officers, thereby making recall election procedures uniform for elected officials.⁴

INTERPRETIVE COMMENT

Recall ballots for state, county, school, and special district officials must include the names of potential successors to be elected on the same ballot as the official being recalled.⁵ However, city recall election ballots under prior law had asked voters two questions: (1) Whether the official should be recalled, and if so, (2) whether the vacancy should be filled by appointment or a special election.⁶ If a majority of a city council was recalled only a special election could replace the vacancies and the recalled officials remained in office until their successors were

1. CAL. ELEC. CODE § 27312(a) (amended by Chapter 79).

2. *Id.* § 27345 (West 1989).

3. 1976 Cal. Stat. ch. 1437, sec. 4, at 6445 (enacting CAL. ELEC. CODE § 27311); *see id.* (requiring city recall ballots to inquire whether the official should be recalled, and if so, whether the vacancy should be filled by appointment or special election); *see also* 1984 Cal. Stat. ch. 882, sec. 2, at 2957 (amending CAL. ELEC. CODE § 27334) (providing that if a majority of a city council is recalled, they are to remain in office until a special election is held to fill their vacancies).

4. 1994 Cal. Legis. Serv. ch. 79, sec. 1, at 428 (repealing CAL. ELEC. CODE § 27311); *id.* sec. 3 at 428 (repealing CAL. ELEC. CODE § 27316.1); *id.* sec. 4, at 428 (repealing CAL. ELEC. CODE § 27330-34); *id.* sec. 5, at 429 (repealing CAL. ELEC. CODE § 27340); *cf.* ARIZ. REV. STAT. ANN. § 19-216(a) (1990) (mandating that the recall and successor of an official be determined on the same ballot); FLA. STAT. ANN. § 100.361(4) (West 1982) (providing that replacements for the unexpired terms of recalled officials must be voted upon at the same election as the recall); WASH. REV. CODE ANN. § 29.82.140 (West 1993) (providing that the unexpired term of a recalled official be treated as a vacancy). *But see* LEAGUE OF CALIFORNIA CITIES, THE CALIFORNIA MUNICIPAL LAW HANDBOOK § III(H)(1) (1993) (noting that cities chartered pursuant to California Constitution art. XI, § 3(a) are not required to comply with state election statutes, although many charter cities have incorporated all or portions of the California Elections Code).

5. CAL. ELEC. CODE § 27312(a) (amended by Chapter 79).

6. 1976 Cal. Stat. ch. 1437, sec. 4, at 6445 (enacting CAL. ELEC. CODE § 27333).

elected.⁷ Chapter 79 eliminates the possibility of recalled city officials remaining in office by consolidating the recall and replacement of city officials on the same ballot similar to other recall elections of public officials.⁸

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7. 1981 Cal. Stat. ch. 1045, sec. 8, at 4030-31 (amending CAL. ELEC. CODE § 27334); see ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF AB 2219, at 1 (Apr. 29, 1994) (stating that under prior law if a majority of a city council was recalled, there was no alternative but a special election); see also LEAGUE OF CALIFORNIA CITIES, THE CALIFORNIA MUNICIPAL LAW HANDBOOK § III(H)(8)(f) (1993) (noting the paradox and stating it is often better for cities to allow recalled city council members to remain in office for the three months until the vacancy election rather than to provide the Governor or some other body with the authority to make interim appointments); Andrew LePage, *Fear of Recall Trend Spread by Ouster of Covina City Council*, L.A. TIMES, July 15, 1993, at B3 (discussing the recall of the entire Covina City Council due to opposition to the council's passing of a six percent utility tax); Andrew LePage, *New Council Takes Over, Tackles Budget*, L.A. TIMES, Dec. 2, 1993, at J1 (noting that a special election to replace the recalled Covina City Council members was not held for more than three months and that the utility tax remained in effect during that period). See generally Art Campos, *Use of Recalls Questioned After Ousters in Lincoln*, SACRAMENTO BEE, June 30, 1994, at B1 (noting that a majority of the Lincoln City Council was recalled over a five percent utility tax and that three Fullerton City Council members were recalled over a two percent utility tax).

8. See ASSEMBLY COMMITTEE ON ELECTIONS, REAPPORTIONMENT AND CONSTITUTIONAL AMENDMENTS, COMMITTEE ANALYSIS OF AB 2219, at 2 (May 17, 1994) (noting the author's intent to prevent recalled council members from remaining in charge of a city despite the obvious lack of confidence in them by the electorate); see also Paul V. Horcher, *Recall Elections*, L.A. TIMES, Aug. 15, 1994, at B6 (noting that the October 18, 1994 special election to replace the recalled Fullerton City Council members cost the city an estimated \$117,000, an expense that would have been eliminated by Chapter 79).