

1994

Recall Elections. State Officers.

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**Recall Elections. State Officers.
Legislative Constitutional Amendment.**

Official Title and Summary Prepared by the Attorney General

**RECALL ELECTIONS. STATE OFFICERS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Authorizes a recall election to be held within 180 days of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring in the same jurisdiction.
- Current law provides that recall elections must be held between 60 and 80 days of the date of certification of sufficient signatures.

**Summary of Legislative Analyst's
Estimate of Net State and Local Government Fiscal Impact:**

- Potentially significant savings to state and local governments.

Final Votes Cast by the Legislature on SCA 38 (Proposition 183)

Assembly: Ayes 62	Senate: Ayes 32
Noes 9	Noes 2

Analysis by the Legislative Analyst

Background

The California Constitution allows voters to recall elected state officers. These include officials elected statewide, such as the Governor, as well as Members of the Legislature, Members of the Board of Equalization, and judges. To recall a state officer, proponents must submit to the Secretary of State signed petitions calling for a recall election. If the petitions are determined to contain enough valid signatures, the Secretary of State informs the Governor, who must call a special election to be held not less than 60 days nor more than 80 days from the date of certification. In contrast, current law allows the Governor to call a special election to fill a vacancy in a legislative office within 180 days of the call, in order that the special election may be consolidated with a regularly scheduled election.

According to the Secretary of State, only four state recall elections have been held since 1913—two in 1913, one in 1914, and one in 1994. However, there have been 107 recall attempts since 1913. Moreover, the number of

attempts has increased in recent years, with 55 recalls attempted since 1986.

Proposal

This constitutional amendment would, in certain circumstances, permit a recall election to be conducted within 180 days (rather than 60 to 80 days) of the date of certification, in order that the election may be consolidated with the next regularly scheduled election occurring in the same jurisdiction. Thus, the measure could reduce the number of recall elections held on dates other than regular election dates.

Fiscal Effect

By allowing recall elections to be consolidated with regularly scheduled elections, this measure could result in savings to the state and local governments (especially to counties). The magnitude of the savings could be significant, depending on the number of recall elections and the size of the jurisdiction in which the recall election is held.

For the text of Proposition 183 see page 64

Argument in Favor of Proposition 183

California remains in the midst of one of the worst economic crises since the Great Depression. Earthquakes and wildfires have ravaged the state unmercifully. Military base closures have stunned our communities.

In the wake of these relentless disasters, our cities and counties have been scrambling for ways to maintain minimum funding for essential services like police and fire protection, education, and health care.

Yet on April 12, 1994, Los Angeles County was forced to spend nearly *one million dollars* on a special recall election even though the regular June primary election was less than two months away.

Why couldn't the county save virtually all that money by holding the recall election on the same day as the statewide primary? Because an obscure provision of the state constitution wouldn't allow it.

Currently, the Governor must schedule recall elections for state officers between 60 and 80 days after the recall petitions are certified. This restriction allows little or no opportunity to combine the recall with an existing election. Little or no opportunity to save money. Little or no opportunity to guarantee better voter participation.

Proposition 183 will give the Governor more flexibility to schedule a recall, but *only* if it can be combined with an existing election already being held in the same area.

The people's democratic right to recall elected officials is precious. But to be truly democratic, recall elections

generally should be scheduled as part of regular elections, when voter turnout is high—not in special elections with nothing else on the ballot, when turnout can drop below ten percent of eligible voters.

Under current law, proponents can manipulate the timing of the recall in order to guarantee that it *cannot* be combined with a regular election. These special interests may be counting on a low turnout to help their cause.

Under Proposition 183, the Governor still would be free to schedule a recall election earlier if necessary. Quick, special recall elections could still be called in cases of widely acknowledged wrongdoing. Delaying in such cases would subject the Governor to intense and well-deserved criticism.

Proposition 183 will simply allow recall elections to be scheduled in both a timely and fiscally responsible manner.

**VOTE TO SAVE TAXPAYERS' DOLLARS.
VOTE TO INCREASE VOTER PARTICIPATION.
VOTE "YES" ON PROPOSITION 183.**

MILTON MARKS
State Senator, 3rd District

TONY MILLER
Acting Secretary of State

MARLYS ROBERTSON
President, League of Women Voters of California

Rebuttal to Argument in Favor of Proposition 183

Recall is your constitutional RIGHT to immediately remove elected officers before their terms expire. Recalling a dishonest politician SAVES TAX DOLLARS and cuts off greedy special interests.

Proponents of Proposition 183 argue that recall elections should be lumped in with the next general election.

But that contradicts the reason why our founders wrote recall powers into our Constitution.

They understood that corrupt politicians could very quickly use their powers to run up huge debts that are ultimately passed on to taxpayers for payment.

Members of the State Legislature, for example, cast hundreds of votes every day for or against increases in taxes, fees, fines, penalties, regulations, and restrictions. At this rate, it can take only a few minutes for an elected official to spend millions of your tax dollars.

Proposition 183 would allow the IRRESPONSIBLE POLITICIAN TO AVOID A RECALL and remain in office where he or she could continue to run up huge tax bills.

How much money will Proposition 183 save, anyway? Since 1911, California has had only four recalls. That's one recall every 21 years! Considering how rare recalls are, is it worth giving up your constitutional right to oust an errant official before they do serious damage to society as a whole?

Certainly our elected representatives can find better ways to save money other than restricting your constitutional voting rights.

Protect your right as a voter. Don't be confused by self-serving arguments which protect corrupt officials. Please VOTE NO ON PROPOSITION 183.

DAVID KNOWLES
Assemblyman, 4th District

MICKEY CONROY
Assemblyman, 71st District

DEAN ANDAL
Assemblyman, 17th District

Recall Elections. State Officers. Legislative Constitutional Amendment.

183

Argument Against Proposition 183

Recall elections are one of the strongest tools available to California voters to make government respond. In 1911, progressive reformers led by Governor Hiram Johnson created a direct method for the people of California to make laws, change laws, and remove elected officials through the use of the initiative, the referendum, and the recall.

Since then, the initiative has been the most common method used by California voters to directly improve their lives without having to depend on action by legislative bodies or the Governor. Successful initiatives include Proposition 13, the property tax limitation initiative, and Proposition 140, the term limits initiative.

Though little used, the recall election is a powerful weapon available to the citizens who are dissatisfied with elected officials who abuse their power, particularly their ability to levy taxes. Recall elections are born out of an urgency to seek IMMEDIATE CHANGE in the direction of government.

The purpose of a recall election is to make an immediate change in who we elect to represent our interests. As written, Proposition 183 could delay recall elections by up to six months after recall signatures have been certified. This would deny voters their constitutional right to directly choose their representatives in a timely manner.

Proposition 183 was placed on the ballot by the Legislature to protect legislators from the voters. In fact, this measure is a direct result of an attempted recall of a State Legislator earlier this year.

Proposition 183 will also create confusion at the polls by preventing voters from exercising their right to recall a state official, when that official is also seeking re-election to the same office that he or she is being recalled from.

For example, if a recall for a state official was consolidated with the primary election that state official could be recalled, while at the same time receiving their party's nomination. Similarly a state official could also be recalled and re-elected at the same time in a general election.

Proponents will argue that combining elections will save money. But at what cost to the taxpayer who will have to endure six more months of bad governance by unresponsive or corrupt officials?

Protect your right as a voter. Don't be confused by self serving arguments. Vote No on Proposition 183.

DAVID KNOWLES
Assemblyman, 4th District
MICKEY CONROY
Assemblyman, 71st District

Rebuttal to Argument Against Proposition 183

Opponents would have you believe that the constitutional right to recall state officials is somehow threatened by Proposition 183. Nothing could be further from the truth.

Proposition 183 not only preserves the citizens' right to remove elected officials from office, but actually improves it. Allowing a recall election to be consolidated with a regularly scheduled election improves the recall process in two ways.

First, it will increase voter turnout. Current laws governing recall elections virtually guarantee a special election. Special elections routinely have very, very small turnouts. Consolidation insures that the greatest number of voters have the opportunity to be heard—simply stated, the more people voting, the healthier the democratic process.

Second, it will avoid costly single issue elections that needlessly waste money. Proposition 183 allows for a

delay of no more than 4 months in scheduling a recall election. This could potentially save millions of dollars in state funds by avoiding the cost of special elections. Why should the taxpayers have to foot the bill for two separate elections which may only be a few weeks apart? Why should the voters have to make two trips to the polls when they really only need to go once?

Proposition 183 saves money and makes voting easier—that's why the League of Women Voters of California is supporting it—so should you.

Vote "YES" on Proposition 183.

MILTON MARKS
State Senator, 3rd District
TONY MILLER
Acting Secretary of State
MARLYS ROBERTSON
President, League of Women Voters of California

same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

2703.15. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount equal to that sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

2703.16. (a) Money may be transferred from the fund to the State Transportation Fund to reimburse the Transportation Planning and Development Account and the State Highway Account for expenditures made from those accounts, on and after November 9, 1994, for capital improvements and acquisitions of rolling stock for intercity rail, commuter rail, and urban rail transit in accordance with Chapter 2 (commencing with Section 14520) of Part 5.3 of Division 3 of Title 2 of the Government Code, as specified in Section 2703.06.

(b) The amount that may be transferred pursuant to subdivision (a) shall not exceed the amount expended from those accounts for those capital improvements and acquisitions of rolling stock.

2703.17. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2703.18. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2703.18. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2703.17. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled

Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2703.19. All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

2703.20. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

2703.21. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2703.22. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

2703.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.

PROPOSITION 182 WAS REMOVED BY LAW

Proposition 183: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 38 (Statutes of 1994, Resolution Chapter 59) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in **strikeout type** and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE II, SECTION 15

SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. ~~If~~

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

Proposition 184: Text of Proposed Law

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the Constitution.

This initiative measure adds a section to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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

It is the intent of the People of the State of California in enacting this measure to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious and/or violent felony offenses.

SECTION 1. Section 1170.12 is added to the Penal Code, to read:

1170.12. (a) Notwithstanding any other provision of law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6) of this subdivision, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

(b) Notwithstanding any other provision of law and for the purposes of this section, a prior conviction of a felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.