

AMENDED IN SENATE AUGUST 24, 2022
AMENDED IN SENATE SEPTEMBER 3, 2021
AMENDED IN SENATE AUGUST 16, 2021
AMENDED IN SENATE JULY 1, 2021
AMENDED IN SENATE JUNE 22, 2021
AMENDED IN ASSEMBLY APRIL 21, 2021
AMENDED IN ASSEMBLY MARCH 17, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 759

Introduced by Assembly Member McCarty
(Coauthor: Senator Newman)

February 16, 2021

An act to ~~amend, repeal,~~ *repeal* and add Section 1300 of the Elections Code, and to ~~amend, repeal, and add~~ *amend* Section 24200 of the Government Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 759, as amended, McCarty. Elections: county officers.

The California Constitution requires the Legislature to provide for an elected county sheriff, elected district attorney, and elected assessor in each county. Existing law also provides that the county treasurer, clerk, auditor, tax collector, recorder, public administrator, and coroner are elective offices unless a county makes them appointive offices, as specified. Existing law generally requires the election to select county officers to be held with the statewide primary election at which

candidates for Governor are nominated, but if no candidate for a county office receives a majority of the votes cast for that office at the primary election, the 2 candidates who received the most votes advance to the statewide general election at which the Governor is elected.

This bill would require the election to select district ~~attorney, sheriff, and assessor~~ *attorney and sheriff* to be held with the presidential primary and would require, if no candidate receives a majority of the votes cast for the office at the presidential primary, the 2 candidates who received the most votes to advance to a general election held with the presidential general election. The bill would provide for a 6-year term for a district ~~attorney, sheriff, or assessor~~ *attorney or sheriff* elected in ~~2022, except as specified.~~ 2022. The bill would authorize a county board of supervisors to adopt an ordinance to also hold the election for other county officers with the presidential primary. ~~The bill would make these provisions operative on January 1, 2023.~~ To the extent changing the date for election of district ~~attorney, sheriff, and assessor~~ *attorney and sheriff* would impose additional duties on local elections officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. ~~Section 1300 of the Elections Code is amended~~
- 2 ~~to read:~~
- 3 1300. (a) ~~Except as otherwise provided in the Government~~
- 4 ~~Code, an election to select county officers shall be held with the~~
- 5 ~~statewide primary at which candidates for Governor are nominated.~~
- 6 ~~In the event that county officers are not elected pursuant to Sections~~
- 7 ~~8140 and 8141, this election shall be deemed a primary election~~
- 8 ~~and a county general election shall be held with the statewide~~
- 9 ~~general election to select county officers.~~

1 ~~(b) This section shall remain in effect only until January 1, 2023,~~
2 ~~and as of that date is repealed.~~

3 *SECTION 1. Section 1300 of the Elections Code is repealed.*

4 ~~1300. Except as otherwise provided in the Government Code,~~
5 ~~an election to select county officers shall be held with the statewide~~
6 ~~primary at which candidates for Governor are nominated. In the~~
7 ~~event that county officers are not elected pursuant to Sections 8140~~
8 ~~and 8141, this election shall be deemed a primary election and a~~
9 ~~county general election shall be held with the statewide general~~
10 ~~election to select county officers.~~

11 SEC. 2. Section 1300 is added to the Elections Code, to read:

12 1300. (a) (1) An election to select a district ~~attorney, sheriff,~~
13 ~~and assessor~~ *attorney and sheriff* shall be held with the presidential
14 primary.

15 (2) If the district ~~attorney, sheriff, or assessor~~ *attorney or sheriff*
16 is not elected pursuant to Sections 8140 and 8141, the election
17 described in paragraph (1) shall be deemed a primary election and
18 a county general election shall be held with the presidential general
19 election to select the district ~~attorney, sheriff, or assessor.~~ *attorney*
20 *or sheriff.*

21 (b) (1) Except as provided in paragraph (2) and as otherwise
22 provided in the Government Code, an election to select county
23 officers other than district ~~attorney, sheriff, and assessor~~ *attorney*
24 *and sheriff* shall be held with the statewide primary at which
25 candidates for Governor are nominated.

26 (2) Notwithstanding paragraph (1), and except as otherwise
27 provided in the Government Code, a county board of supervisors
28 may adopt an ordinance to hold an election to select any county
29 officer other than a county superintendent of schools with the
30 presidential primary.

31 (3) If a county officer described in this subdivision is not elected
32 pursuant to Sections 8140 and 8141, the election held pursuant to
33 paragraph (1) or (2) shall be deemed a primary election and a
34 county general election for the office shall be held with the
35 following statewide general election.

36 (c) Notwithstanding subdivision (b) of Section 1003 or any
37 other law, the requirement that the district ~~attorney, sheriff, and~~
38 ~~assessor~~ *attorney and sheriff* be elected in presidential election
39 years applies to both general law and charter counties, except those
40 charter counties that, on or before January 1, 2021, expressly

1 specified in their charter when an election for district attorney,
2 sheriff, or assessor *attorney or sheriff* would occur.

3 (d) ~~(1) Except as provided in paragraph (2), a district attorney,~~
4 ~~sheriff, or assessor~~ *A district attorney or sheriff* elected in 2022
5 shall serve a six-year term and the next election for that office shall
6 occur at the 2028 presidential primary.

7 ~~(2) A county may, by ordinance, provide for a two-year term~~
8 ~~for a district attorney, sheriff, or assessor elected in 2022, in which~~
9 ~~case the next election for that office shall occur at the 2024~~
10 ~~presidential primary.~~

11 ~~(3) This subdivision shall become operative on January 1, 2022.~~

12 ~~(e) Except as provided in subdivision (d), this section shall~~
13 ~~become operative on January 1, 2023.~~

14 SEC. 3. Section 24200 of the Government Code is amended
15 to read:

16 24200. ~~(a) Except as otherwise provided, all elective county~~
17 ~~officers shall be elected at the general election at which the~~
18 ~~Governor is elected, election specified pursuant to Section 1300~~
19 ~~of the Elections Code and take office at 12 o'clock noon on the~~
20 ~~first Monday after the January 1 succeeding their election.~~

21 ~~(b) This section shall remain in effect only until January 1, 2023,~~
22 ~~and as of that date is repealed.~~

23 SEC. 4. ~~Section 24200 is added to the Government Code, to~~
24 ~~read:~~

25 24200. ~~(a) Except as otherwise provided, all elective county~~
26 ~~officers shall be elected at the election specified pursuant to Section~~
27 ~~1300 of the Elections Code and take office at 12 o'clock noon on~~
28 ~~the first Monday after the January 1 succeeding their election.~~

29 ~~(b) This section shall become operative on January 1, 2023.~~

30 ~~SEC. 5.~~

31 SEC. 4. The provisions of this act are severable. If any
32 provision of this act or its application is held invalid, that invalidity
33 shall not affect other provisions or applications that can be given
34 effect without the invalid provision or application.

35 ~~SEC. 6.~~

36 SEC. 5. If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

O