Proposition 5

Changes Recall Election Process for Statewide Officers. Legislative Constitutional Amendment.

BACKGROUND

Election of State Officials. The State Constitution establishes legislative, executive, and judicial state offices. Some state officials represent parts of the state, known as districts. Other state officials, like the Governor or Attorney General, represent the entire state. Voters elect people to represent them in state offices for set terms. For example, a state Assembly Member is elected to a two-year term and the Governor is elected to a four-year term. To run for a state office, candidates must submit specific nomination documents before the election. State law sets when this "nomination period" occurs.

Recall of State Officials. The State Constitution allows voters to remove state officials from office before their term ends through a recall. A recall is an election in which voters are asked whether to remove an official from office. To qualify a recall for the ballot, supporters of the recall must collect a certain number of signatures from the official's district (or statewide for statewide offices). Since 1913, 11 state recall efforts have qualified for the ballot (nine legislators and two Governors) and six have resulted in an official's removal from office (five legislators and one Governor).

Two Questions in Recall Elections. In a recall election, voters are asked two questions: (1) whether the official should be removed from office and (2) who should replace the official if removed from office. The number of candidates appearing in the second question varies. For example, there were 135 candidates in the 2003 Governor recall election and 46 candidates in the

2021 Governor recall election. If a state official is recalled, the person who receives the most votes in the second question assumes the office.

Vacant State Offices. State officials may leave office before the end of their term for reasons other than a recall. For example, they may die or resign. When this happens, the office becomes vacant. The process to fill a vacant office varies by office. Typically, a vacant seat in the Assembly or Senate is filled through a special election called by the Governor. The Lieutenant Governor serves as Governor when there is a vacancy in the office of the Governor. Vacancies in other executive offices (for example, the Lieutenant Governor or Attorney General) and the Supreme Court and Courts of Appeal are filled by appointments by the Governor.

Frequency of Elections. Statewide elections in California are scheduled every two years. In scheduled election years, a primary election is held in either March or June, depending on the year, and a general election is held in November. In addition to scheduled elections, the state and local governments may call special elections to address specific issues. For example, the Governor may call a special election to fill a vacant Assembly seat.

Elections Administration in California. County elections officials administer most elections in California. As part of this work, they print and mail ballots and other voting materials to registered voters. Some state agencies also have election-related workload. For example, the Secretary of State oversees elections across the state and prepares and mails the state *Voter Information Guide*.

Paying for State Recall Elections. State law requires the California Department of Finance to work with state and local elections officials to estimate the cost of a recall election for a state office. The department is required to send the estimate to the Legislature. The Legislature reviews the estimate and may provide funding for the election. Any remaining costs are paid by the Secretary of State's and counties' budgets.

PROPOSAL

As described below, Proposition 5 changes the recall process to make it like the existing process for filling vacant state offices, except for the process to recall the Governor.

Removes Second Question From Recall Elections. Proposition 5 removes the second question—who should replace a recalled official—from a recall election. This means, in future recall elections, voters would only decide whether to remove an elected official from a state office, not who would replace the official.

Specifies Steps for Filling Vacant Offices. If a state official is recalled, Proposition 5 makes the office of the recalled official vacant. Except for the office of the Governor, Proposition 5 uses the existing process for filling vacancies to fill the office. In the case of an office in the state Senate or Assembly, this means that a replacement typically would be elected through a separate special election. The Governor would choose who would fill a vacancy in any other office (other than office of the Governor).

Creates Separate Process for Filling the Office of the Governor. The process for filling the office of the Governor depends on when the recall occurs. If the Governor is recalled before the close of the nomination period for the next statewide election during the first two years of the term, Proposition 5 says that the Lieutenant Governor serves as Governor until voters elect a new Governor at a future statewide election. If the Governor is recalled later in the term, the Lieutenant Governor serves as Governor for the rest of the term.

FISCAL EFFECTS

Fiscal Effects Depend on Frequency of Recalls and the Offices Recalled. Whether there would be costs or savings compared with today depends on the frequency of future recalls and the offices recalled. A recall of a statewide office (for example, Lieutenant Governor) would affect state elections officials and local elections officials in all 58 counties. A recall of a district-based office (for example, a state Senator or Assembly Member) would only affect state elections officials and local elections officials in those districts.

Potential Costs. Proposition 5 could result in higher costs associated with future recall elections if a special election is necessary to fill the vacant office after a recall. For example, a legislative office made vacant after a recall typically would be filled through a special election. If that special election could not be consolidated with a scheduled election, elections officials would need to run a standalone special election. The cost to state and local elections officials to administer such a special election could be millions of dollars per election.

Potential Savings. Proposition 5 could result in lower costs by removing the second question from the ballot. These savings would occur when a Governor is recalled in the latter part of the term and for other offices where vacancies are filled by appointment. There would be savings because ballots and voting materials would no longer include information about replacement candidates. The amount of savings would depend on how many candidates there would have been on the ballot if the second question remained but could be millions of dollars per election.

Net Effect Depends on Circumstances of Future Recall Efforts. The net fiscal effect is unknown because it depends on future recall elections. Proposition 5 could lead to **savings or costs potentially in the range of millions of dollars** to administer recall elections. How these savings or costs would be shared by state and county governments would depend on future decisions by the Legislature. This net fiscal effect represents less than one-tenth of 1 percent (0.1 percent) of the state's total General Fund budget. (The General Fund is the account the state uses to pay for most public services, including education, health care, and prisons.)