



Little Hoover Commission Hearing California's Recall System, Part 2 October 28, 2021

Testimony by Kim Alexander, President & Founder, California Voter Foundation and
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California Voter Foundation Board Chair

The California Voter Foundation appreciates the Little Hoover Commission's interest in making improvements to California's recall election process and we hope this testimony provides useful input to the Commission members' important deliberations.

While there has been a good deal of discussion and polling about improvements that could be, and perhaps should be made to the way California conducts recall elections, our desire is to call attention to some recent changes that are welcome, and some additional changes that would benefit election officials' ability to successfully administer recall elections in the future.

The recall election marks the first time in California history where the cost of conducting a statewide election incurred by counties was required to be reimbursed by the State of California. This is a welcome change from the status quo, and came about thanks to a relatively new law, Senate Bill 96 of 2017.

In May 2021, counties were asked to submit their projected election costs to the Department of Finance, which totaled \$215.2 million across the 58 counties, and was later revised to \$243.6 million, following enactment of Senate Bill 152 (a law redefining the recall as a regular, rather than special election). The 2021-22 state budget included funding to pay for these costs, and additional funding is expected to be included in the 2022-23 budget to cover the additional costs resulting from SB 152.

It is the position of the California Voter Foundation that election administration costs have become a financial hardship on California's counties, which can impact their ability to provide services voters have come to expect, and that voters deserve. The requirement that counties bear the responsibility for conducting elections in California and pay for the cost of elections has been part of California law since the Political Code of California was enacted in 1872.

However, the electoral landscape has changed considerably since then. Most importantly, in 1911, the California Constitution was amended to add the voter tools of the initiative, referendum and recall. While initially not widely utilized, in the last few decades these tools of direct democracy have exploded in their use, with 10-20 propositions typically populating every General Election ballot.

Counties are responsible for facilitating balloting on ballot measures, and are also responsible for verifying millions of signatures required to qualify measures for the ballot in the first place. As California's population has exploded in the past century, and continues to grow, these responsibilities place an enormous financial and administrative burden on county election officials and their staff, who must perform their duties under strict deadlines and often with considerable public interest and attention.

The California Voter Foundation urges you to recommend that the State of California continue to reimburse counties the cost of conducting recall elections, and in addition, to expand reimbursement to include the cost of verifying petition signatures for recall campaigns. We also urge you to expand this reimbursement to include petition signature and election costs associated with all initiative and referendum measures as well.

Election Code 11108 (d)¹ does in fact require that the cost of verifying recall petition signatures be included in the election cost estimates counties submit to the Department of Finance; however, the form provided to counties did not include this line item. In her June 23, 2021 letter to Finance Director Keely Martin Bosler, Secretary of State Dr. Shirley Weber noted that the cost estimates "must include expenses for verifying signatures".²

We expect that next year, the 2022-23 state budget will include approximately \$28.4 million to make up for the funding shortfall that occurred due to the passage of SB 152; it can and should also include the costs counties incurred in 2021 to verify 1.5 million recall petition signatures.

Furthermore, it is important to recognize that ballot measures, along with the numerous statewide contests California holds every four years, take up a significant percentage of the amount of "real estate" on California ballots. For "down ballot" contests for offices such as school boards or city councils, counties are able to submit a bill to those jurisdictions, which then reimburse counties for the cost of conducting their elections. It is the position of the California Voter Foundation that the State of California ought to be doing the same thing: ask counties to submit to the Department of Finance a bill for the cost of facilitating any and all state contests on the ballot, and then reimburse counties for the state's fair share of those costs.

In addition, we feel it is important for commission members to know that while the California Constitution was amended in 1979 to require the state to reimburse counties for state-mandated local programs,³ the cost of state-mandated election laws **has not been funded in the California State Budget since 2011**. It exists as a budget line item with a "Zero" beside it,

¹ Election Code 11108 (d) is online at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11108.&lawCode=ELEC.

² Correspondence between the Secretary of State and Department of Finance is available online at <https://elections.cdn.sos.ca.gov/recalls/dept-finance-letter.pdf>.

³ Proposition 4, the Government Spending "Gann Limit" initiative, was approved by 75 percent of California voters in 1979. For more information see: [https://ballotpedia.org/California_Proposition_4,_Government_Spending_%27Gann_Limit%27_Initiative_\(1979\)](https://ballotpedia.org/California_Proposition_4,_Government_Spending_%27Gann_Limit%27_Initiative_(1979)).

despite that fact that such reimbursements are constitutionally-mandated. And in the meantime, state lawmakers have enacted numerous new election laws that, while making changes that are beneficial to voters, continue to go unfunded.

We do not expect the Commission to solve everything that is broken in the realm of election administration funding but we do see your work and effort to reform the recall process as an opportunity to correct a long-standing wrong by **recommending that all initiative, recall and referendum election costs incurred by counties be reimbursed by the state.**

The California Voter Foundation also **recommends you support changes to the timeline for scheduling recall elections.** Under current law, a recall election must take place within 60-80 days of the measure's qualification. That is simply not enough time for counties to prepare for an election. At a minimum, counties should have at least as much time to prepare for a statewide recall election as they currently have to prepare for a recall election for a local official: at least 88 days and at most 125 days.⁴ California is home to over 22 million registered voters and ensuring all of them had their recall election sample ballots and vote-by-mail ballots in hand under current statutory deadlines placed enormous pressure on county election offices across the state. There was widespread concern that not all counties would be able to get their ballots printed and delivered in time. Fortunately our state's election officials overcame these enormous challenges and conducted an election that was widely considered to be very successful from an administrative point of view. But over the summer the level of stress and anxiety among election officials was severe, and the recall election took place in a post-2020 presidential election environment that was hostile to election officials and polluted with widespread mis- and disinformation.

The California Voter Foundation released a report earlier this year, ***Documenting and Addressing Harassment of Election Officials***, available on our web site at <https://www.calvoter.org/harassment>, which shines a light on the difficult and threatening environment election officials find themselves in today as a result of fraudulent fraud claims made about the 2020 presidential election. These claims continued into to recall election, with both the leading recall replacement candidate and the former U.S. president falsely claiming the recall was "rigged". Election officials are our frontline workers of democracy and they are operating in an environment that is growing increasingly hostile and even violent.

We appreciate your thoughtful consideration of these issues and hope you will support the California Voter Foundation's recommendations that counties be provided with more time to prepare for future recall elections and that reimbursement of recall election costs continue and be extended to include petition signature verification as well as costs associated with qualifying and conducting elections on initiative and referendum measures.

⁴ Election Code section 11242, online at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=11242.&lawCode=ELEC. Additional county election officials should be consulted to determine what would be an adequate amount of time to prepare for a statewide recall election, especially in light of recently enacted legislation (AB 37) that now requires all registered voters to be sent vote-by-mail ballots for every election.