

**RESOLUTION 1-04-2002**

**DIGEST**

Recall Petitions: Number of Required Signatures

Amends Elections Code section 11221 to require signatures of 30 percent of registered voters to qualify a recall election and to change the section’s reference from “superior or municipal” court to “trial” court.

**RESOLUTIONS COMMITTEE RECOMMENDATION  
DISAPPROVE**

Reasons:

This resolution amends Elections Code section 11221 to require signatures of 30 percent of registered voters to qualify a recall election and to change the section’s reference to “superior or municipal” court to “trial” court. This resolution should be disapproved because it would render a recall virtually impossible in large districts.

In a large district, it would be a tremendous and disproportionate burden to obtain the signatures of 30 percent of the registered voters on a recall petition. For example, in a county with 1,000,000 registered voters, 300,000 signatures would be required. That would probably exceed the total voter turnout at the regular election. The current statute permits decreasing percentages of signatures as the population of registered voters increases. This reflects political realities and preserves the right of voters to recall elected officials.

**TEXT OF RESOLUTION**

RESOLVED that the Conference of Delegates recommends that legislation be sponsored to amend Elections Code section 11221 to read as follows:

- 1    §11221
- 2           The number of qualified signatures required in order to qualify a recall for
- 3    the ballot shall be as follows:
- 4           (a) In the case of an officer of a city, county, school district, community
- 5    college district, county board of education, or resident voting district, the number
- 6    of signatures shall be equal in number to not less than thirty percent of the
- 7    registered voters in the electoral jurisdiction. ~~the following percent of the~~
- 8    ~~registered voters in the electoral jurisdiction:~~
- 9           (1) ~~Thirty percent if the registration is less than 1,000.~~
- 10          (2) ~~Twenty five percent if the registration is less than 10,000 but at least~~
- 11          ~~1,000.~~
- 12          (3) ~~Twenty percent if the registration is less than 50,000 but at least~~
- 13          ~~10,000.~~
- 14          (4) ~~Fifteen percent if the registration is less than 100,000 but at least~~
- 15          ~~50,000.~~
- 16          (5) ~~Ten percent if the registration is 100,000 or above.~~
- 17          (b) For purposes of this section, the number of registered voters shall be
- 18    calculated as of the time of the last report of registration by the county elections
- 19    official to the Secretary of State pursuant to Section 2187, and prior to the finding

20 by the elections official or Secretary of State that no alterations are required in the  
21 form of the recall petition pursuant to Section 11042.

22 (c) (1) In the case of a state officer, including judges of courts of appeal  
23 and trial courts, the number of signatures shall be as provided for in subdivision  
24 (b) of Section 14 of Article II of the California Constitution. In the case of a  
25 judge of a trial superior or municipal court, which office has never appeared on  
26 the ballot since its creation, or did not appear on the ballot at its last election  
27 pursuant to Section 8203, the number of signatures shall be as provided in  
28 subdivision (b) of Section 14 of Article II of the California Constitution, except  
29 that the percentage shall be based on the number of votes cast within the judicial  
30 jurisdiction for the countywide office which had the least number of votes in the  
31 most recent general election in the county in which the judge holds his or her  
32 office.

33 (2) For purposes of this subdivision, "countywide office" means an  
34 elective office wholly within the county which is voted on throughout the county.

35 (d) In the case of a landowner voting district, signatures of voters owning  
36 at least ~~10~~ 30 percent of the assessed value of land within the electoral  
37 jurisdiction of the officer sought to be recalled.

(Proposed new language is underlined; language to be deleted is stricken.)

PROPONENT: Bar Association of San Francisco

#### STATEMENT OF REASONS

Existing Law: Provides a graduated schedule of requirements for the number of signatures required on petitions to initiate a recall election for local officials, and contains an outdated reference to municipal courts.

This Resolution: Would require that recall proponents obtain the signatures of thirty percent (30%) of all registered votes in the locality to initiate a recall election, regardless of the size of the electoral district, and would amend the statute to remove the reference to municipal courts.

The Problem: Recently, there has been a disturbing increase in misguided attempts to recall local officials for perceived wrongs, usually for motives arising from personal vendettas. In most cases, the proponents have used deceptive methods to gather signatures on the petitions required for recall elections, most notably the provision of misinformation and misrepresentations about the nature or effect of the petition or the election. In one of the most egregious cases, Marin County was forced to spend approximately half a million dollars to hold a recall election for the office of district attorney. Many voters complained that they had been misled by the signature gatherers as to the reason for the recall, or as to what the petition was about in the first place. The recall failed by a margin of approximately 6 to 1. After this failure, the same groups that launched this and other recall efforts vowed to pursue other recall elections against other officials around the state.

Current law provides a graduated schedule for determining the number of signatures required to effect a local recall election. Under that schedule, as the number of registered voters in a district increases, the percentage of signatures required to force a recall election decreases. This results in recall elections which are backed by a smaller percentage of the electorate in larger localities.

A recall is the harshest sanction that can be imposed on an elected official. It should be imposed only for the grossest acts of malfeasance or incompetence in office. A costly recall election should not be required upon the call of a small segment of the electorate, but should be held only if a substantial portion of the registered voters agree that the official is in dereliction of his or her duties of office. Increasing the required number of signatures to 30% of the registered voters in all cases will better ensure that the will of the people is being heard.

The statute's reference to municipal courts should be removed because it is outdated.

#### **IMPACT STATEMENT**

This proposed resolution does not affect any other law, statute, or rule.

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**RESPONSIBLE FLOOR DELEGATE:** Jim Weixel

#### **COUNTERARGUMENT**

##### **SAN DIEGO COUNTY BAR ASSOCIATION**

The existing law adequately addresses the issue. Requiring signatures of 30% of the registered voters in a larger electoral jurisdiction might make it extremely difficult to qualify a recall for the ballot. The expense associated with obtaining signatures of 30% of the registered voters might be unduly burdensome and preclude attempts at recall elections on the ballots.

##### **SANTA CLARA COUNTY BAR ASSOCIATION**

A recall election is an important safety valve in our political system. When disaffected citizens have no remedy within the system, they go outside the system to demonstrate, engage in civil disobedience or worse. The cost of a recall election pales in comparison to the cost of responding to the activities of those seeking redress outside the political system. Although some adjustment to the schedule set forth in Section 11221 may be appropriate, this resolution tips the balance too far in the direction of making it impractical for people in larger electoral jurisdictions to cause a recall election.