
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SCA 1 (Hertzberg) - Elections: referenda

Version: December 7, 2020

Urgency:

Hearing Date: July 15, 2021

Policy Vote: E. & C.A. 4 - 1

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SCA 1 (if approved by the voters) would provide (1) that a “Yes” vote for a referendum measure is in favor of the referendum and rejects the statute or part of the statute subject to it, and (2) a “No” vote is against the referendum and approves the statute or part of the statute subject to the referendum.

Fiscal Impact: This measure would result in one-time General Fund costs to the Secretary of State (SOS) in the range of \$546,000 to \$728,000, likely in 2021-22, for printing and mailing costs to place the measure on the ballot in a statewide election. Actual costs may be higher or lower, depending on the length of required elements and the overall size of the ballot.

Background: Data from the National Conference of State Legislatures (NCSL) indicate that in 23 states, legislative acts may be repealed by a popular referendum, also called a “veto referendum.” According to NCSL research of those states’ laws or practices, in the majority of states, including California, a “yes” vote indicates that the voter approves of the law passed by the Legislature and wants it to remain in effect.

However, in at least three states, Alaska, Maine, and Wyoming, a “yes” vote indicates that the voter disapproves of the law and wants it repealed, as proposed in this bill. For example, in Alaska the ballot label describes the law that is the subject of the referendum, then provides voters with the following prompt: “A yes vote rejects the law. A no vote approves the law. Should this law be rejected?” Immediately after the prompt, a voter may mark either “yes” or “no.”

In a few states, the voting options on a referendum ballot are something other than “yes” or “no.” For example, in Maryland voters mark their ballots either “for the referred law” or “against the referred law,” in Nebraska voters choose whether to “retain” or “repeal” the act in question, and in New Mexico voters must check a box either “for approval of the act” or “for rejection of the act.”

Proposed Law: This measure would make the following changes to the California Constitution:

- Provide that a referendum petition shall provide that a “Yes” vote is in favor of the referendum and rejects the statute or part of the statute subject to the referendum, and a “No” vote is against the referendum and approves the statute or part of the statute subject to the referendum.
- Specify that a ballot shall provide that a “Yes” vote is in favor of the referendum and rejects the statute or part of the statute subject to the referendum, and a “No”

vote is against the referendum and approves the statute or part of the statute subject to the referendum.

- Provide that, if a referendum measure fails by not receiving a majority of votes cast, the statute or part of a statute that was the subject of the referendum takes effect on the fifth day after SOS files the statement of the vote for the election at which the measure's vote occurs.
- Clarify that the Legislature may amend or repeal a part of a statute that is the subject of a referendum.

Related Legislation: SB 443 (Hertzberg) would make statutory changes to implement SCA 1, if that measure is passed and approved by the voters. The bill is pending in the Assembly Rules Committee.

Staff Comments: SOS indicates that printing and mailing costs associated with placing a measure on the statewide ballot are approximately \$91,000 per page, depending on the length of the ballot. The fiscal estimates noted above reflect the addition of 6-8 pages in the Voter Information Guide. Actual costs would depend upon the length of the title and summary, analysis by the LAO, proponent and opponent arguments, and text of the proposal.

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