

Date of Hearing: August 20, 2025

# ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 485 (Reyes) – As Amended April 7, 2025

Policy Committee:	Local Government	Vote:	7 - 1
	Public Safety		7 - 0

Urgency: No      State Mandated Local Program: Yes      Reimbursable: Yes

## SUMMARY:

This bill removes the “at will” status of appointed county public defenders and instead allows a county board of supervisors to remove an appointed public defender from office by a three-fifths vote of the board for neglect of duty, malfeasance or misconduct in office, or other good cause.

## FISCAL EFFECT:

Local costs of an unknown amount, but potentially greater than \$150,000 statewide for local agencies to revise administrative procedures regarding the ability of counties to remove appointed public defenders from office. These costs are potentially state-reimbursable, subject to a determination by the Commission on State Mandates.

## COMMENTS:

- 1) **Purpose.** This bill is sponsored by the California Public Defenders Association. According to the author:

Chief Public Defenders play a crucial role in ensuring a fair and equitable justice system. They uphold the Constitution by guaranteeing access to competent legal counsel for all, regardless of financial status. When a public defender fulfills this duty to their clients, it may mean taking unpopular stances which can include positions that, although legal, come into conflict with their appointing board. This creates a challenging environment as public defenders can be fired without cause by a county board of supervisors, creating a disincentive to fulfill their duties out of fear of retaliation, and in turn not offering their clients their constitutionally guaranteed rights. To ensure a fair legal system, public defenders must be free from political pressure and retaliation.

- 2) **Background.** To ensure individuals charged with a crime receive equal protection and due process under the law, both the U.S. Constitution and California Constitution guarantee the right to effective attorney assistance to defendants in criminal proceedings. The U.S. Supreme Court’s decision in *Gideon v. Wainwright* (1963) found that the right to counsel is “fundamental and essential to fair trials” in the United States and defendants who cannot afford to hire attorneys cannot be assured of a fair trial unless attorneys are provided by the government.

**Public Defender.** Existing law authorizes a board of supervisors of a county to establish the office of public defender for the county. Thirty-four of California's 58 counties have established a public defender office. Counties without an office contract with law offices to provide indigent defense services. When counties establish a public defender office, existing law allows the board of supervisors to elect or appoint the public defender. Thirty-three counties appoint their public defender. Only San Francisco elects its public defender. Existing law requires an appointed public defender to serve at the will of the board of supervisors, meaning the board can remove them at any time for any reason.

This bill instead allows a county board of supervisors to remove its public defender from office only by a three-fifths vote for neglect of duty, malfeasance or misconduct in office, or other good cause. According to the author and sponsor, this change is necessary to protect public defenders from fear that performing their duties could lead to retaliation.

**County Counsel.** Existing law authorizes county board of supervisors to appoint a county counsel, who serves as the county's lawyer. A county counsel serves a four-year term, may be reappointed, and may be removed by the board of supervisors for neglect of duty, malfeasance or misconduct in office, or other good cause by a three-fifths vote of the board.

This bill, by making a county public defender removable for cause, more closely aligns the appointment of a public defender with the appointment of a county counsel, but without the option to reevaluate the public defender appointment every four years.

**Charter Counties.** Existing county charters allow the state's 14 charter counties to determine certain conditions for county officers, including term limits and conditions for removal. For example, Fresno, San Diego and Alameda Counties each have charter provisions that specify the county counsel serves at will, and can be removed by the board for any reason.

There are currently 33 counties with an appointed public defender. Even if this bill is enacted, 13 of those are charter counties that could impose other limits on the terms of a public defender, should they find it necessary. General law counties do not have this ability.

- 3) **Oppose Unless Amended.** The California State Association of Counties (CSAC), the Urban Counties of California (UCC), and the Rural County Representatives of California (RCRC) assert:

[We] are concerned about the long-term implications of a perpetual appointment if it is not paired with routine performance oversight or a structured review process. These additional elements are needed to ensure that all department heads are held to the same standards to meet their various responsibilities adequately. Public accountability is an essential element of county governance, and it is both reasonable and prudent to provide clear procedures in the event of a contested termination.

CSAC, UCC, and RCRC are requesting amendments to establish a defined term of office for a public defender such as the one provided for a county counsel, and to set forth a clear process for judicial review should a public defender contest their removal from office.