



## RECALL OF PUBLIC OFFICERS

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### Ballot Title

**RECALL OF PUBLIC OFFICERS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Repeals existing and enacts new Article XXIII of State Constitution, relating to recall of elective public officers and election of successors in event of recall. Provides for recall elections of State officers upon petition signed by specified percentages of electors who voted for the office at last election with Governor to set election dates and Legislature to provide for circulation, filing, certification of petitions, nomination of candidates, and recall election. State officer not recalled shall be reimbursed for recall election expenses. Legislature shall provide for recall of local officers. Financial impact: Local government costs will be increased to the extent recalls of local officials are increased.

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### FINAL VOTE CAST BY LEGISLATURE ON ACA 29 (PROPOSITION 9):

ASSEMBLY-Ayes, 71      SENATE-Ayes, 28  
Noes, 2                      Noes, 3

### Analysis by Legislative Analyst

#### PROPOSAL:

The State Constitution presently contains a recall procedure which allows voters to remove a state elected official from office before the official's term of office has ended. It provides also for the recall of city and county elected officials and requires the Legislature to enact a specific procedure for this purpose.

**Clarification of Existing Law.** This proposition clarifies the recall provisions of the Constitution. It also states concisely the number of signatures necessary for a recall petition.

**Time Limit.** The Constitution does not now include a time limit in which to gather petition signatures. The proposition limits this time to 160 days.

**Time of Recall.** Under the present Constitution, a recall action cannot be started against an elected official until the official has held office for at least six months, or, if the official is a state legislator, for five days. The proposition will eliminate these "grace" periods so that a recall action can be started immediately following an official's election.

**Procedural Details.** Many of the procedural details of recall actions can be placed in statutory law, rather than in the Constitution. The proposition removes procedural details from the Constitution, and

a bill passed by the Legislature in 1974 (AB 483, Chapter 233) will place these matters into statutory law if this proposition is adopted by the voters.

**Enlarging the Right of Recall.** The proposition makes all local officials subject to recall rather than just officers of cities and counties.

#### FISCAL EFFECT:

To the extent that making all local officials subject to recall increases the number of recall elections, additional local costs will be incurred.



## RECALL OF PUBLIC OFFICERS

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### Argument in Favor of Proposition 9

Proposition 9 continues the work of the Constitution Revision Commission in modernizing our State Constitution so that it can be understood by the average citizen.

In the proposal, the mechanics of recalling public officials are set forth in clear and simple language. All basic rights are retained in more understandable form while technical detail, which does not belong in a constitution, is transferred to the statutes.

A YES vote on Proposition 9 will apply the people's right to recall public officials more uniformly and will clarify the signature-gathering process. It will also eliminate inequities in the existing "grace period," which is the time between an officer's election and the time when a recall drive may begin.

The approval of this proposition will not increase the cost of government, but will strengthen and protect the right of the people to recall state officers.

A YES vote on Proposition 9 will continue the job of revision begun several years ago to modernize our State Constitution so that it will be a

clear, concise, and workable statement of fundamental law for all of the people of California.

Passage of Proposition 9 will shorten the State Constitution by reducing the Recall Article from 2100 to 320 words.

Proposition 9 is a nonpartisan measure that passed both houses of the Legislature with only five dissenting votes. The proposition is supported by the League of Women Voters, the League of California Cities, and various consumer groups.

Vote YES on Proposition 9 to make sure that your rights are safeguarded and cannot be taken from you by language that is confusing, ambiguous and unclear. Help make California's government more efficient and effective.

**BARRY KEENE**  
*Assemblyman, 2nd District*

**DIXON ARNETT**  
*Assemblyman, 26th District*

**JUDGE BRUCE W. SUMNER**  
*Chairman, Constitution Revision Commission*

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### Rebuttal to Argument in Favor of Proposition 9

Simply shortening the State Constitution is no virtue, especially when such action dangerously threatens the people's fundamental right of recall.

We do not agree that the "technical detail" which is removed by this proposal from the Constitution "does not belong" there. So long as these details, which we view as vital, are in the Constitution, they may be changed only by the people.

Placing these "details" in the statutes allows them to be changed by the legislature, whose members themselves are subject to recall.

And, we fail to see how Proposition 9 serves to "clarify the signature-gathering process," when the specifics of the present Constitution dealing with this subject are simply removed.

Nor can we agree that governmental costs will not be increased by this proposal. The indirect costs resulting from the possible

establishment of cumbersome procedures and an inability to quickly and easily recall an irresponsible public official are too high.

The work of the Constitution Revision Commission has been rejected by the voters before, and we urge you to again turn down this attempt to transfer power from you, the electorate, to the legislature. The people must retain specific authority over this basic protection.

Recall of elected public officials is too important to trust to politicians. We urge a "NO" vote on Proposition 9.

**JOHN STULL**  
*Senator, 38th District*

**MIKE D. ANTONOVICH**  
*Assemblyman, 43rd District*

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## RECALL OF PUBLIC OFFICERS

### Argument Against Proposition 9

Proposition 9 represents a dangerous assault upon the people's basic protection against unscrupulous public officials-the right to recall.

It removes from the State Constitution such specific provisions and procedures as the means of circulating recall petitions, printing on the ballot of reasons for the recall and the accused official's response to those charges, and the manner in which a person may be nominated for the office which is to be filled at the recall election.

Rather than retaining these vital procedures in the Constitution, where they can only be changed by a vote of you, the people, Section 4 of this proposal gives control of these matters to the legislature, whose members may change them by majority vote.

And, legislators themselves are subject to recall.

#### **DON'T LOSE THIS NEEDED PROTECTION FOR THE PEOPLE**

More specifically, the proposed changes remove the affirmative statement that "every elective public officer of the State of California may be removed from office at any time by the electors . . ." This is a needed protection for the people-and a warning to politicians-which deserves to be spelled out and locked in the Constitution.

#### **AVOID BALLOT WORDING CONFUSION**

Additionally, Proposition 9 would remove the specific wording of recall ballot measures from the State

Constitution. This is undesirable because it would thus become all too easy for the legislature to prescribe a method whereby a "yes" vote would mean "no" on recall and a "no" vote would mean "yes" on recall. Ballot wording is all too often confusing, and constitutional protections are needed to insure that the crucial question of recall be presented to the people in a straightforward manner, as currently provided.

In summary, then, the desirability of "updating" the State Constitution should not be allowed to overshadow the need of the people to preserve their fundamental rights and freedoms. Transferring authority from the people to the legislature may be advisable in some instances, but certainly not when the subject is recall of public officials, including legislators themselves.

And finally, we are today seeing an increasing trend by federal, state and local elected officials to create appointive boards and commissions. The members of such bodies are immune from direct voter accountability. Because the people are losing access to such appointed policymakers, we should be strengthening, rather than weakening, the ability of the people to control their elected public officials.

Thus, we ask for your "NO" vote on Proposition 9.

**JOHN STULL**  
*Senator, 38th District*

**MIKE D. ANTONOVICH**  
*Assemblyman, 43rd District*

### Rebuttal to Argument Against Proposition 9

Far from being an assault on the right of recall, Proposition 9 strengthens it as follows:

1. The right of recall is EXTENDED BY CONSTITUTIONAL GUARANTEE BEYOND REACH OF THE LEGISLATURE to include not only state officials, but also local officials.

2. It ELIMINATES THE PERIODS DURING WHICH OFFICEHOLDERS, INCLUDING LEGISLATORS, ARE CONSTITUTIONALLY IMMUNE from recall.

3. The time allowed for gathering signatures and the amount necessary are for the first time clearly spelled out TO ELIMINATE THE DISCOURAGING UNCERTAINTY that has effectively prevented exercise of the recall right in many cases.

4. The Secretary of State is required to maintain a continuous count of signatures gathered TO ELIMINATE THE GUESSWORK that discourages recall petitioners.

It is not true that the removal of detail weakens fundamental rights. "Detail" in the Constitution so obscures

those rights, so confuses the basic recall machinery, and so resists sensible updating that it effectively denies the right in many instances. Proof of this is that no statewide officeholder has ever been recalled in the history of California.

Proposition 9 retains all the necessary requirements for recall and, as the impartial analysis in the pamphlet points out, the effect of this proposal is that of "enlarging the right of recall." That is the intention and that is the effect.

**BARRY KEENE**  
*Assemblyman, 2nd District*

**DIXON ARNETT**  
*Assemblyman, 26th District*

**JUDGE BRUCE W. SUMNER**  
*Chairman Constitution Review Commission*

This amendment proposed by Assembly Constitutional Amendment 29 (Statutes of 1974, Resolution Chapter 52) expressly repeals an existing article of the Constitution and adds a new article thereto; therefore, existing provisions proposed to be repealed are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type*.

## PROPOSED AMENDMENTS TO ARTICLE XXIII

First – That Article XXIII is repealed.

### ARTICLE XXIII RECALL OF PUBLIC OFFICERS

~~SECTION 1. Every elective public officer of the State of California may be removed from office at any time by the electors entitled to vote for a successor of such incumbent, through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and is in addition to any other method of removal provided by law.~~

~~The procedure hereunder to effect the removal of an incumbent of an elective public office shall be as follows: A petition signed by electors entitled to vote for a successor of the incumbent sought to be removed, equal in number to at least twelve per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies (*provided* that if the officer sought to be removed is a State officer who is elected in any political subdivision of the State, said petition shall be signed by electors entitled to vote for a successor to be incumbent sought to be removed, equal in number to at least twenty per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies) demanding an election of a successor to the officer named in said petition, shall be addressed to the Secretary of State and filed with the clerk, or registrar of voters, of the county or city and county in which the petition was circulated, *provided* that if the officer sought to be removed was elected in the State at large such petition shall be circulated in not less than five counties of the State, and shall be signed in each of such counties by electors equal in number to not less than one per cent of the entire vote cast, in each of said counties, at said election, as above estimated. — Such~~

~~petition shall contain a general statement of the grounds on which the removal is sought, which statement is intended solely for the information of the electors, and the sufficiency of which shall not be open to review.~~

~~When such petition is certified as is herein provided to the Secretary of State, he shall forthwith submit the said petition together with a certificate of its sufficiency, to the Governor, who shall thereupon order and fix a date for holding the election, not less than sixty days nor more than eighty days from the date of such certificate of the Secretary of State.~~

~~The Governor shall make or cause to be made publication of notice for the holding of such election, and officers charged by law with duties concerning elections shall make all arrangements for such election and the same shall be conducted, returned, and the result thereof declared, in all respects as are other State elections. On the official ballot at such election shall be printed, in not more than two hundred words, the reasons set forth in the petition for demanding his recall. And in not more than three hundred words there shall also be printed, if desired by him, the officer's justification of his course in office. Proceedings for the recall of any officer shall be deemed to be pending from the date of the filing with any county, or city and county clerk, or registrar of voters, of any recall petition against such officer, and if such officer shall resign at any time subsequent to the filing thereof, the recall election shall be held notwithstanding such resignation, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law, but the person appointed to fill such vacancy shall hold his office only until the person elected at the said recall election shall qualify.~~

~~Any person may be nominated for the office which is to be filled at any recall election by a petition signed by electors, qualified to vote at such recall election, equal in number to at least one percent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Each such nominating petition shall be filed with the Secretary of State not less than twenty five days before such recall election.~~

~~There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?", following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (X), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election, but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate~~

for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No", said incumbent shall continue in said office. If a majority shall vote "Yes", said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote of any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected, for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

Any recall petition may be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same stating his qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of electors. Each section of

the petition shall be filed with the clerk, or registrar of voters, of the county or city and county in which it was circulated, but all such sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the date of filing such petition, the clerk, or registrar of voters, shall finally determine from the records of registration what number of qualified electors have signed the same, and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistants for the purpose of examining such petition and provide for the compensation. The said clerk or registrar, upon completion of such examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar of voters to the Secretary of State, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof as of the original petition, and upon the conclusion of such examination shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the Secretary of State.

When the Secretary of State shall have received from one or more county clerks, or registrars of voters, a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State a certificate showing such fact, and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the State.

No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months, save and except it may be filed against any member of the State Legislature at any time after five days from the convening and organizing of the Legislature after his election.

If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the State treasury any amount legally expended by him as expenses of such election, and the Legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

If the Governor is sought to be removed under the provisions of this article, the duties herein imposed upon him shall be performed by the Lieutenant Governor, and if the

~~Secretary of State is sought to be removed, the duties herein imposed upon him shall be performed by the State Controller, and the duties herein imposed upon the clerk or registrar of voters, shall be performed by such registrar of voters in all cases, where the office or registrar of voters exists.~~

~~The recall shall also be exercised by the electors of each county, city and county, city and town of the State, with reference to the elective officers thereof, under such procedure as shall be provided by law.~~

~~Until otherwise provided by law, the legislative body of any such county, city and county city or town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall petition to be signed by electors more in number than twenty-five percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities or counties or cities and counties having charters adopted under the authority given by the Constitution.~~

~~In the submission to the electors of any petition proposed under this article all officers shall be guided by the general laws of the State, except as otherwise herein provided.~~

~~This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein reserved.~~

~~Second – That article XXIII is added to read:~~

## ARTICLE XXIII

### RECALL OF PUBLIC OFFICERS

SECTION 1. Recall is the power of the electors to remove an elective officer.

SEC. 2 (a) Recall of a State officer is initiated by delivering to the State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall

Senators, Assemblymen, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to him.

SEC. 3 An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. If the majority vote on the question is to recall the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

SEC. 4. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

SEC. 5 If recall of the Governor or Secretary of State is initiated, his recall duties shall be performed by the Lieutenant Governor or Controller, respectively.

SEC. 6 A state officer who is not recalled shall be reimbursed by the State for his recall election expenses legally and personally incurred. Another recall may not be initiated against him until 6 months after the election.

SEC. 7. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall.