



# San Bernardino County

## Legislation Text

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**File #: 2898, Agenda Item #: 76**

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**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SAN BERNARDINO  
AND RECORD OF ACTION**

**September 15, 2020**

**FROM**

**CURT HAGMAN, Chairman, Board of Supervisors**

**JANICE RUTHERFORD, Second District Supervisor, Board of Supervisors**

**SUBJECT**

Introduction of an Ordinance Amending the San Bernardino County Code Relating to the Filling of a Vacancy in an Elective Office

**RECOMMENDATION(S)**

1. Consider proposed ordinance adding Section 12.0104 to Chapter 1 of Division 2 of Title 1 of the San Bernardino County Code, relating to supplementary procedures for the filling of a vacant elective office.
2. Make alterations, if necessary, to proposed ordinance.
3. Approve introduction of proposed ordinance.
4. Read title only of proposed ordinance; waive reading of entire text and SCHEDULE FOR FINAL ADOPTION ON TUESDAY, SEPTEMBER 29, 2020, on the consent calendar.

(Presenter: Michelle D. Blakemore, County Counsel, 387-5455)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Promote the Countywide Vision.**

**Improve County Government Operations.**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**FINANCIAL IMPACT**

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost).

**BACKGROUND INFORMATION**

The proposed ordinance provides specific procedures to complement the more general procedures for the filling of a vacancy in a County elective office.

Section 7 of Article I of the County Charter provides general procedures for the filling of a vacancy on the Board of Supervisors. In summary, the remaining members of the Board of Supervisors may make an appointment by majority vote to fill the vacancy. The appointment must be made from the qualified electors of the Supervisorial District in which the vacancy exists. If the remaining members of the Board of Supervisors fails to make such appointment within 30 days of the vacancy, such appointment shall be made by the Governor.

Section 7 of Article II of the County Charter provides that vacancy in any of the Countywide elective offices

shall be filled by the Board of Supervisors by appointment for the unexpired term. The Countywide elective offices are Sheriff, District Attorney, Assessor, Treasurer, Auditor, Tax Collector, Recorder, Public Administrator, and Coroner. These elective offices are currently consolidated in the following manner: Sheriff-Coroner-Public Administrator; District Attorney; Assessor-Recorder-County Clerk; Auditor-Controller/Treasurer/Tax Collector.

The proposed ordinance provides the following procedure:

- a) When the Clerk of the Board of Supervisors (the Clerk of the Board) becomes aware of a vacancy or an impending vacancy in any County elective office, the Clerk of the Board shall place an item identifying the vacancy on the public portion of the agenda for the next regular meeting of the Board of Supervisors or on the agenda for a special meeting of the Board of Supervisors.
- b) If the Board of Supervisors determines to fill the vacancy by appointment, then the Board of Supervisors shall: set a date for making the appointment (in compliance with charter deadlines); direct the Clerk of the Board to prepare an application form; set a date and time for when applications for appointment must be submitted to the Clerk of the Board; direct the Clerk of the Board to prepare and post a notice of vacancy, which shall include the deadline for the submission of applications.
- c) Applications shall be submitted to the Clerk of the Board no later than the deadline set by the Board. Applications submitted after the deadline shall not be considered. Submitted applications shall be available for inspection or copying by the public upon request. The personal contact information of candidates shall remain confidential.
- d) At a regular or special meeting in open session, the Board of Supervisors shall determine whether or not to interview applicants and, if it chooses to conduct such interviews, the Board shall establish the interview process including but not limited to supplemental submittals from applicants and appropriate deadlines. The Board of Supervisors may at its discretion interview all applicants, certain applicants, or no applicants. If only certain applicants will be interviewed, then the Board of Supervisors shall, in open session, decide the manner in which the applicants will be chosen and, at the same meeting or a future meeting, choose the applicants to be interviewed. The Board of Supervisors may, if it so wishes, conduct a second round of interviews.
- e) If all or some applicants are to be interviewed, then they will be interviewed in open session at a regular or special meeting of the Board of Supervisors. Each applicant may make an opening statement of approximately three minutes or as otherwise determined by the Chair of the Board of Supervisors. The order in which applicants shall be interviewed shall be determined by a random method. The order may be altered by the Chair due to the availability of an applicant or for some other good cause. Following each opening statement, each member of the Board of Supervisors may ask questions of the applicant.
- f) After completion of the interviews, the public shall have opportunity to address the Board of Supervisors concerning the appointment. The time allotted for each speaker shall be three minutes or as otherwise determined by the Chair.
- g) After completion of the interviews and public comment, the Board of Supervisors shall deliberate in open session about the appointment. Thereafter, the Board of Supervisors may take action to make the appointment. If the vacancy is in a Countywide elected office, then the appointment shall require a majority vote of the total membership of the Board of Supervisors. If the vacancy is in the office of Supervisor, then the appointment shall require a majority vote of the remaining members of the Board of Supervisors.
- h) The Board of Supervisors may continue the matter, at any stage of the proceeding, to a subsequent

regular or special meeting, subject to applicable charter deadlines. At its discretion, the Board of Supervisors may alter, supplement, or waive any requirement of this section. Such altering, supplementing, or waiving must be done in open session.

The proposed ordinance provides that the procedures of the ordinance shall be applied in a manner that does not conflict with the charter, and that in no event shall the ordinance prevent, or be applied in a manner that prevents, the Board of Supervisors from making an appointment to fill a vacancy. These supplementary procedures will help expedite the filling of a vacancy by appointment and ensure transparency and public participation.

The proposed ordinance does not conflict with the vacancy filling provisions of the proposed revised County Charter (July 28, 2020, Item No. 75). The proposed revised County Charter authorizes the Board of Supervisors to fill a vacancy through either appointment or by the calling of an election. As discussed above, the procedure of the proposed ordinance is intended to timely alert the Board of Supervisors and the public of any vacancy in a County elective office. The remainder of the procedure in the proposed ordinance would only apply if the Board of Supervisors chose under the revised County Charter (if it is ratified by the electorate in the November 2020 election) to fill the vacancy by appointment rather than the calling of an election.

#### **PROCUREMENT**

Not applicable.

#### **REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Michelle Blakemore, County Counsel, 387-5455) on September 1, 2020; Finance (Stephenie Shea, Administrative Analyst, 387-4919) on September 3, 2020; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on September 3, 2020.