

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 1293 (Ochoa Bogh)
Version: April 8, 2024
Hearing Date: April 30, 2024
Fiscal: No
Urgency: No
AM

SUBJECT

Recall elections: notice of intention

DIGEST

This bill requires that a notice of intention to recall an officer that is published publically in a newspaper of general circulation can omit the proponents' signatures and street numbers and street names of their residence addresses.

EXECUTIVE SUMMARY

To initiate a recall of an officer, the proponent of the recall must serve a notice of intention on the officer sought to be recalled and then file that notice of intention with the elections official, or in the case of a recall of a state officer the Secretary of State. (Elec. Code § 11021 & 11023.) Additionally, a proponent must publish a copy of the notice of intention at least once in a newspaper of general circulation. (Elec. Code § 11022.) Existing law requires the notice of intention to include certain information, such as the name of the proponents, their full address, and their signatures. (Elec. Code § 11020.) This bill seeks to omit certain information in a notice of intention from being published publicly, specifically the proponents' signatures and the street numbers and street name of the proponents' residence or home address. The author states that this is necessary to prevent identity theft, predatory scams, and excessive junk mail. Additionally, the author writes that publically providing the full address of proponents could potentially lead to acts of political violence and intimidation.

This bill is author sponsored. No timely support or opposition was received by the Committee. The bill passed the Senate Elections and Constitutional Amendments Committee on a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires a notice of intention to be served by personal delivery, or by certified mail, on any officer sought to be recalled. (Elec. Code § 11021.)
- 2) Requires, within seven days of serving the notice of intention pursuant to 1), that the original notice of intention be filed, along with an affidavit of the time and manner of service, with the elections official or, in the case of the recall of a state officer, the Secretary of State.
 - a) A separate notice of intention must be filed for each officer sought to be recalled. (*Ibid.*)
- 3) Requires the notice of intention to contain all of the following information:
 - a) the name and title of the officer sought to be recalled;
 - b) a statement, not exceeding 200 words in length, of the reasons for the proposed recall;
 - c) the printed name, signature, and residence address, including street and number, city, and ZIP Code, of each of the proponents of the recall; however, if a proponent cannot receive mail at the residence address, the proponent shall provide an alternative mailing address; and
 - d) an answer filed by the officer sought to be recalled in response to the service of the notice of intention provided for in 1), above. (Elec. Code § 11020.)
- 4) Requires a copy of the notice of intention to be published at the proponent's expense, as specified.
- 5) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public's right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 6) Governs the disclosure of information collected and maintained by public agencies pursuant to the California Public Records Act (CPRA). (Gov. Code §§ 7920.000 et seq.)

- a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines "public records" as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
- 7) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)
- a) Specifically provides that certain election petitions are not public records and are not disclosable under the CPRA, with limited exceptions. (Gov. Code § 7924.110.)

This bill specifies that the published copy of the notice of intention can omit the proponents' signatures and street numbers and street names of their residence addresses, as specified.

COMMENTS

1. Stated need for the bill

The author writes:

The recall gives voters the power to remove elected officials before their terms expire. It has been a fundamental part of California's political system since 1911 and has been used by voters to express dissatisfaction with their elected representatives. Since the addition of recall provisions in the California Constitution, there have only been 11 recall elections against a state official. By contrast, the recall is more commonly used at the local level.

While most recall attempts are unsuccessful, all of them begin with a notice of intention, which requires a voter's name, address, and signature. Accordingly, this personally identifying information (PII) is then published and available electronically. The misuse of PII can lead to identity theft, predatory scams, and excessive junk mail. In an increasingly online world and with a prevalence of social media-driven disinformation, PII taken from these published forms could be used to perpetrate acts of political violence and intimidation. Additionally, individuals could spend an enormous amount of time and money trying to undo the damage caused by the inappropriate use of their PII.

Senate Bill 1293 would require the published copy of the notice of intention in a recall election to omit, among other things, the proponents' signatures and

residential addresses. The recall is a popular tool of electoral accountability that has been used by California's voters for more than a century. In this era of digital technology, it is critical we take steps to safeguard the personal information of voters who choose to engage in the electoral process.

2. Recall elections and notice of intention

The California Constitution requires the Legislature to provide for the recall of local officers; however, this provision does not apply to counties and cities whose charters provide for recall. (Cal. Const., art. II, § 19.) The Elections Code defines "local officer" for these purposes as "an elective officer of a city, county, school district, community college district, or special district, or a judge of a trial court." (Elec. Code § 11004.)

Existing law requires a notice of intention to recall and officer: (1) be served on the officer sought to be recalled; (2) be filed with the election official or Secretary of state, as appropriate; and (3) be publically published in a newspaper of general circulation. A notice of intention must contain all of the following information:

- the name and title of the officer sought to be recalled;
- a statement of the reasons for the recall that does not exceed 200 words;
- the number of valid signatures;
- the printed name, signature and residence address of each proponent of the recall, as specified; and
- an answer filed by the officer sought to be recalled.

This bill would allow the proponents' signatures and the street numbers and street name of their address to be omitted from the publicly published notice. The author argues above that this bill is needed to, among other things, prevent identity theft and predatory scams. The author additionally notes above that publically publishing the full address of proponents of a recall could potentially lead to acts of political violence and intimidation in today's current political climate.

3. Proposed amendment

Under the CPRA, all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure in whole or in part. The CPRA specifies that certain election petitions are not public records and not disclosable to the public, with limited exceptions. (Gov. Code § 7924.110.) This provision; however, does not apply to notices of intention. In order to fully realize the intent of the author in protecting the public disclosure of proponents' signatures and their street numbers and street name, the author has agreed to amend the bill to require the elections official or, in the case of the recall of a state officer, the Secretary of State, to redact that information on a filed notice of intention before disclosing it to the public.

The specific amendments are as follows:¹

Amendment 1

Section 11021 of the Elections Code is amended to read:

11021. (a) A copy of the notice of intention shall be served by personal delivery, or by certified mail, on the officer sought to be recalled. Within seven days of serving the notice of intention, the original thereof shall be filed, along with an affidavit of the time and manner of service, with the elections official or, in the case of the recall of a state officer, the Secretary of State. A separate notice of intention shall be filed for each officer sought to be recalled.

(b) Notwithstanding the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), the elections official or Secretary of State shall redact the information specified in subparagraph (B) and subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (a) of Section 11020 before making the notice of intention available to the public.

Amendment 2

Include legislative findings and declarations to demonstrate the interest protected by the limitation on the access to public records and the need for protecting that interest to read:

This act strikes an appropriate balance between the public's right to access information and the need to protect the private signatures and street numbers and street addresses of the proponents of a recall.

SUPPORT

None received

OPPOSITION

None received

¹ The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

RELATED LEGISLATION

Pending Legislation: SB 1027 (Menjivar, 2024), among other things, requires the Secretary of State (SOS) to redact the bank account number on a statement of organization before making the statement available to the public in any form. This bill is currently pending referral in the Assembly.

Prior Legislation: None known.

PRIOR VOTES

Senate Elections and Constitutional Amendments Committee (Ayes 7, Noes 0)
