

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
SB 286 (Min) – As Amended June 2, 2022

**[Note: This bill is double referred to the Assembly Elections Committee and was heard by that Committee as it relates to issues under its jurisdiction.]**

**SENATE VOTE:** 30-7

**SUBJECT:** Elections: Orange County Board of Education

**SUMMARY:** Requires the election for seats on the Orange County Board of Education to be consolidated within the November statewide general election. Specifically, **this bill:**

- 1) Requires, notwithstanding any other law, an election for Orange County Board of Education that is determined by the plurality of the votes cast for that office, with no possibility of a runoff, and is consolidated with a statewide election, to be consolidated with the statewide general election in November.
- 2) Requires, as necessary, the term of office of all incumbent officers to be extended accordingly until the successor takes office after the new election date.
- 3) States that the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing elections for Orange County Board of Education.

**EXISTING LAW:**

- 1) Requires that the Legislature provide for a board of education in each county, as specified. (Constitution of California, Article IX, Section 7)
- 2) Authorizes a county charter to provide for the election of the members of the county board of education of such county and for their qualifications and terms of office. (Constitution of California, Article IX, Section 3.3)
- 3) Requires that, in charter counties, the manner of selection of the county board of education be prescribed in the county charter, or by the county board of supervisors. (Education Code (EC) 1000)
- 4) Provides, generally, that the regular election to select governing board members in any school district, community college district, or county board of education be held on the first Tuesday after the first Monday in November of each odd-numbered year. (Elections Code (ELC) 1302)
- 5) Requires that members of the county board of education be elected on the date and in the manner prescribed for the election of members of governing boards of school districts, provided the elections are held throughout the county on the same date; otherwise, requires

the election to be consolidated with the direct primary election. Requires no subsequent change of circumstances to require that the time of holding the election be changed. (EC 1007)

- 6) Requires that the regular election to select governing board members in any school district, community college district, or county board of education be held on the first Tuesday after the first Monday in November of each odd-numbered year, except after the initial election of governing board members in any school district, community college district, or of members of a county board of education, the election of governing board members for the district or of members of the county board of education may be established, upon the adoption of an appropriate resolution by the governing board or the county board of education, to regularly occur on the same day as the statewide direct primary election, the statewide general election, or the general municipal election. Existing law provides that the resolution is to become operative upon approval by the board of supervisors. (ELC 1302)
- 7) Authorizes a charter amendment to appear on the San Diego County ballot to require candidates for county office to be elected at the general election. (Government Code 23725)

#### **FISCAL EFFECT:**

According to the Senate Appropriations Committee, By changing the date for the election of seats on the Orange County Board of Education, thereby imposing additional duties on local elections officials, this bill could create a reimbursable state mandate. Additional local costs resulting from the bill (among others) would include potentially adding an extra ballot card to presidential election cycle ballots to accommodate the additional contests. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but potentially in the hundreds of thousands of dollars annually (General Fund). This bill is not likely to result in new costs to the Secretary of State.

#### **COMMENTS:**

***Key provisions of the bill.*** This bill requires, as of January 1, 2023, an election for any elected office within the Orange County Department of Education (OCDE) that is determined by the plurality of votes cast for that office, with no possibility of runoff (“winner takes all”), and is consolidated within a statewide election (primary or general), to be held at the same time as the statewide general election in November.

***Need for the bill.*** According to the author, “School boards, including local school districts and county boards of education, have the option of holding their single plurality elections either in the primary or in the general election. Some school boards choose to hold their single plurality election in the primary therefore eliminating even the possibility of a general election school board election. Overall, statewide general elections attract significantly more voters than primary elections. Not only is the number of voters significantly smaller compared to general elections, primary electorates also include fewer people from underrepresented populations – including youth, Black, Latinx, and Asian American people, than do fall general electorates. The overwhelming majority of county offices of education hold elections for elected office in the November general election. From the county offices of education that had candidate elections in 2020, 42 (89%) appeared on the November general election ballot. Only five county offices of

education held candidate elections on the primary ballot in 2020. SB 286 would increase voter participation in the Orange County Department of Education elections and reduce voter confusion by creating uniformity around the timing of elections.”

***Orange County Department of Education.*** The OCDE is the county office of education (COE) for Orange County. According to the OCDE, the COE “serves some of Orange County’s most vulnerable student populations and provides support and mandated fiscal oversight to 28 school districts serving more than 600 schools and approximately 475,000 students. In addition to providing direct instruction to students through its own alternative and special education programs, OCDE administers an array of programs and services that are critical to the operations of local school districts and community colleges, facilitating professional development, legal guidance, payroll, career and technical education support, high-speed internet access, Local Control and Accountability Plan assistance and approval, resources for families, and student enrichment.”

The elected offices within the OCOE include seats on the county board of education and the county superintendent of schools, however this bill relates only to the seats on the county board of education.

***Local remedy exists.*** Existing law authorizes county boards of education to adopt a resolution to change their elections to regularly occur on the same day as the statewide *direct primary election*, the statewide *general election*, or the *general municipal election*. Existing law requires the resolution to be approved by the county board of supervisors in order to become effective. Existing law requires the board of supervisors, within 60 days from the date of submission, to approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled.

At this time, the Orange County Board of Education has not adopted such a resolution or requested to consolidate its election into the statewide general election. ***The Committee may wish to consider***, as also posed in the Senate Education Committee analysis of this bill, should the existing local remedy be attempted prior to the Legislature imposing a change in local election procedures?

***Arguments in support.*** The AAPIs For Civic Empowerment - Education Fund writes, “Currently, most counties within California can make the final determination on the winner of a county seat in a low voter turnout primary election rather than making that determination in a higher turnout general election. This creates a systemic barrier for the majority of voters to elect their county officials. The electoral terrain in California has shifted dramatically over the past decade, seeing an expansion of the electorate that participates in statewide and local elections, with the November general election having a significantly larger turnout. In addition, the political terrain has continued to shift with the Covid-19 pandemic, racial justice uprisings, and shifts in federal government. Additionally, many voters across California have expressed confusion when local, state, and federal election requirements are not aligned, and minimal effort is made to notify voters of the election guidelines at each level.”

***Arguments in opposition.*** The California State Association of Counties writes, “SB 286 would unnecessarily extend the duration of local campaigns, delay the eventual election, and add local election costs and costs for candidates without an appreciable change in election outcomes. Under current law, county offices are voted upon during statewide primary elections. For those

candidates for county offices that receive a majority of votes at a primary election, no additional election is necessary. If no candidate receives a majority of votes cast in a primary election, the top two vote-getters advance to the general election. SB 286 would change that model by requiring the top two candidates to advance to a runoff in the general election, even if one of those candidates had already received a majority of votes cast in the primary election.”

**Related legislation.** AB 759 (McCarty) of the 2021-22 Session would require, beginning January 1, 2023, that an election to select a county district attorney, sheriff, and assessor be held with the presidential primary and, if a runoff is required, with the presidential general election, instead of with gubernatorial elections.

SB 1450 (Umberg) of the 2019-20 Session contained a provision that was similar to this bill but applicable statewide rather than just to offices within the Orange County Department of Education. SB 1450 would have required an election for an office that is determined by the plurality of the votes cast for that office, with no possibility of a runoff, that is consolidated with a statewide election shall be consolidated with the statewide general election in November. This bill was held in the Senate Elections and Constitutional Amendments Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

AAPIs for Civic Empowerment Education Fund  
Alianza Coachella Valley  
Art and Science Cultural Center  
Asian Americans Advancing Justice - California  
Bend the Arc: Jewish Action  
California Common CAUSE  
California Donor Table  
California League of Conservation Voters  
California School Employees Association  
California Voices for Progress  
Camp Fire Inland Southern California  
Communities for A New California (CNC) Action Fund  
Community Health Action Network  
Conduit Community Development  
Congregations Organized for Prophetic Engagement (COPE)  
Courage California  
Divine Truth Social Justice Ministries  
Empowering Pacific Islander Communities (EPIC)  
Fourth District PTA  
Inland Coalition for Immigrant Justice  
Inland Congregations United for Change  
Inland Empire United, a Project of Tides Advocacy  
Inland Equity Partnership  
Inland Region Equality Network  
Leadership Counsel for Justice and Accountability  
League of Women Voters of California  
Motivating Action Leadership Opportunity (MALO)

Mi Familia Vota  
National Association of Social Workers, California Chapter  
Orange County Civic Engagement Table  
Orange County Employees Association  
People's Collective for Environmental Justice  
Reach Out  
San Francisco Rising Alliance  
Sheriffs for Trusting Communities  
Sigma Beta Xi, INC. (SBX Youth and Family Services)  
Starting Over INC.  
Union of Concerned Scientists  
Voices for Progress  
Warehouse Worker Resource Center  
We the People - San Diego

**Opposition**

California Association of County Treasurers & Tax Collectors  
Californians for Electoral Reform  
California State Association of Counties  
County of Madera  
Peace and Freedom Party of California  
Rural County Representatives of California  
Urban Counties of California

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