

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law. Today's podcast is voting on a recall petition.

As provided by California's Constitution in Article II, Section 13, the recall is the power of the electors to remove an elected officer. The process is initiated by filing a petition alleging a reason for the recall. However, pursuant to Section 14 of Article II, "sufficiency of reason is not reviewable." As such, neither a court nor a government official can, if you will, second guess the reason stated for the elected officer's proposed recall.

Some forget that at the same election to determine whether to recall the elective officer there is also an election to determine a successor for that office. So, pursuant to Section 15 of Article II of our state Constitution, "If the majority vote on the question is to recall, then the officer is removed." If there's a candidate, the candidate who receives a plurality is the successor." Note that the officer may not be a candidate.

As such, the state's electorate casts two votes at the same election. The first is "Shall the elective officer be recalled?" And then second, "Which candidate do you vote for to fill the term if that officer is removed?"

If the officer is not removed from office, then the results of the second question are moot. However, if the officer is removed from office, then he or she is replaced at the same election by the candidate who gets the highest number of votes. There is not a runoff election, hence, the candidate who fills the seat can do so by less than 50% of the vote.

Note also that pursuant to Section 18 of Article II, a state officer who is not recalled shall be reimbursed by the state for the officer's recall election expenses that were legally and personally incurred. As a result, if a recall effort against a state officer is unsuccessful, then he or she can be paid back for their recall campaign expenses.

Moreover, under Section 18, again from Article II of the California Constitution, another recall may not be initiated against that officer until six months after the election. Therefore, repeat efforts to recall the same official can only be possible twice a year.

Thanks for joining us for this brief review of voting on a recall petition.