



February 5, 2021

TO: State Association of County Retirement Systems  
FROM: Edelstein Gilbert Robson & Smith, LLC  
RE: **Legislative Update – February 2021**

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Californians have had the right to recall elected officials for 110 years. In that time, 54 attempts to recall a California Governor have been launched. Only one of these has been successful.

In October 2003, Californians voted to recall Governor Davis. When the recall effort got started in 2002, it was underfunded and easy to dismiss. Then in May 2003, Congressman Darrel Issa, a gubernatorial hopeful himself, dropped nearly \$2 million into the effort. Suddenly, the rag-tag campaign was able to step up its efforts, hiring paid professionals to collect the signatures necessary to qualify for the ballot. Then, two months out from the October 7 election date, Arnold Schwarzenegger threw his hat into the ring as a Republican candidate. With super-star name ID and the memory of rolling blackouts fresh in the minds of Californians, Schwarzenegger was able to convince voters to ditch Davis in favor of himself.

An increasingly serious recall campaign targeting Governor Newsom has gained steam in the last two months. While there are too many variables to speak with absolute confidence, our best guess is that Governor Newsom is vulnerable but unlikely to be recalled in the end. There are a number of considerations.

### **Can Proponents Collect Enough Signatures?**

To qualify the recall of an elected official, proponents must collect signatures equal to 12% of voters in the last gubernatorial election (2018). That makes the magic number for those who wish to recall the Governor just shy of 1.5 million voters. To date, they have collected 1.2 million, and have until March 17 to collect the remainder.

Proponents seem close on paper, but only 410,000 of those 1.2 million signatures have been verified so far. The conventional wisdom is that those wishing to qualify for an election need a healthy margin of signatures to account for those that are not valid. In this case, proponents will need to turn in around 2 million to be safe. To date, the cash-strapped recall campaign has relied on volunteers to collect signatures. While they're close to getting what they need, hitting the mark by March 17 is an open question without being able to hire paid signature gatherers.

### **If the Recall Qualifies, What's Next?**

County election officials will have until April 29 to verify the signatures collected. If the recall qualifies, an election will be held later this year, likely in September or August depending on when the recall qualifies. On election day, voters will be asked two questions; should the Governor be recalled, and if so, who should replace him?

Unlike most California elections, where the top two candidates from the primary advance to the general election alone regardless of party, there is no limit to how many candidates can run in a recall election. In 2003, voters were asked to choose between 135 candidates including, Schwarzenegger, the Democratic Lieutenant Governor, Gary Coleman, and adult film actress Mary Carey.

### **Campaign**

While Governor Newsom won early praise and national attention for his handling of the pandemic, he has been facing negative press on and off since. He has faced criticism for his handling of the pandemic both from those who believe he has gone too far, and those who believe he has not been consistent enough. Regardless of whether that criticism is fair, nearly 40,000 Californians have died during the pandemic. Countless business owners and their employees are struggling to get by while facing local and state orders to shutter their businesses. Meanwhile, California is consistently one of the worst performing states when it comes to distributing its share of vaccines and, in an effort to get money into the hands of needy Californians quickly, it's estimated that over \$10 billion has been paid out in fraudulent unemployment claims by Newsom's Administration.

On top of all of this, the Governor has made a number of unforced political errors. The most prominent being his choice to attend an unmasked in-person gathering to celebrate the 50<sup>th</sup> birthday of a long-time friend and lobbyist in November. The gathering was held at the most expensive restaurant in California and flew in the face of the cautionary guidance espoused by the Governor for other Californians.

All of this would give plenty of fodder to those hoping to recall the Governor, but to be successful, they need the money to get the message out and a strong candidate to rally around.

### **Funding**

As noted above, the recall campaign has not relied on paid signature gatherers. That's likely because they have only raised \$2.4 million to date, a paltry sum for a statewide campaign in California. While some donors will come out of the woodwork if the recall qualifies, the California Republican Party's chronic inability to raise enough money to seriously challenge Democrats will leave them at a disadvantage in the recall campaign.

### **Who Will Run?**

It is unlikely that any top Democrats will run in the recall election, even if it qualifies. They are more likely to instead focus on defending Newsom. Two Republican candidates appear to be ready to throw their hats in the ring.

John Cox, Governor Newsom's Republican opponent in the 2018 election, has contributed to the recall campaign and been a vocal supporter. He has launched an exploratory committee for the 2022 gubernatorial campaign. Cox's best asset as a candidate is his own net worth which is over \$100 million. He could use this money to kick start his campaign as he did in 2018.

Another Republican contender is former San Diego Mayor Kevin Faulconer. Like Cox, Faulconer has been a vocal supporter of the recall effort and has launched an exploratory committee for the 2022 campaign. However, while Cox was handed a 24 point defeat in 2018, Faulconer would be a fresh candidate. At the same time, he has the benefit of previous political experience with San Diego being the largest US city with a Republican Mayor during his tenure.

Neither Cox nor Faulconer have much name recognition with voters statewide, and certainly not as much as the Governor.

### **Why Will it be Hard for them to Win?**

California politics has changed in fundamental ways since 2003. In 2003, 35% of registered voters were Republicans. Governor Davis assumed office in 1999 following sixteen years of Republican control. He defeated his Republican opponent in the 2002 election by only 5%. While Republicans were in the minority in the Legislature, they controlled fifteen seats in the forty-member Senate and thirty-two seats in the eighty-member Assembly.

The picture is quite different in 2021. With just 24.2% of voters registered as Republicans, the party competes for registration not with Democrats, but with decline to state voters who have sometimes exceeded Republicans in recent years. As noted above, Newsom beat Cox by 24% in the 2018 election. Nine out of forty state Senators and only twenty out of eighty Assemblymembers are Republicans.

All of this means that the Republicans are facing a huge challenge to convince voters to ditch Newsom. Even raising money is a challenge. When John Cox challenged Newsom in 2018, he raised \$16.8 million, \$5.7 million came from his personal bank account. Meanwhile, Newsom raised \$58.2 million.

Republicans tend to enjoy better turnout in off year and special elections than Democrats. However, between the decline in registration, funding shortfall, and lack of a candidate with statewide name recognition, it's likely Republicans just don't have what they need to win. Just as significantly, the Republican Party's association with former President Trump, who is wildly unpopular in California, is a huge liability.

### **Conclusion**

While it's too early to know exactly how the recall will shake out, we feel confident drawing two conclusions.

First, the further the recall effort progresses, the more attention it will demand from Newsom and his allies. If qualified, the 2022 gubernatorial campaign will essentially begin a year early and will likely be a more serious threat to Newsom than it would have been otherwise. All of this is an unneeded distraction when the state is grappling with a global pandemic and the economic fallout associated with it.

Second, if the recall qualifies, it probably won't be great for Newsom's political career. Even if he successfully defeats the recall, the fact that he faced it and a potentially ugly campaign will probably hang over his head for years.