



# BALLOT MEASURE SUBMITTAL FORM

Official Use Only: Date Stamp

**RECEIVED**  
Alameda County

DEC 06 2023

Reg. of Voters

All fields with an \* are required.

## BALLOT MEASURE QUESTION

Jurisdiction Name\*: County of Alameda

Election Date\*: March 5, 2024

**Note:** The information as it appears within the text box will be printed on the ballot and voter guide.

Insert ballot question text here\*:

CHARTER AMENDMENT – ADOPTING STATE LAW RECALL PROCEDURES FOR USE IN ALAMEDA COUNTY. Shall Section 62 of the County of Alameda Charter governing the recall of elective and appointive County officers be amended by replacing the current language, in its entirety, with “California state law applicable to the recall of county officers shall govern the recall of County of Alameda elected officers”?	YES
	NO

## TYPE OF MEASURE\*

## PERCENTAGE NEEDED TO PASS\*

Regular Measure     Parcel Tax

50% + 1     66.6667%     2/3

Bond Measure     Charter Amendment

Other: Click or tap here to enter text.

## FULL-TEXT OPTION\*

Full Text to be printed in the Voter Information Pamphlet:

YES (*note: must provide an MS Word file*)

NO – Do not print, but it’s accessible at: Click or tap here to enter text.

## AUTHORIZED REPRESENTATIVE/CONTACT PERSON\*

(office use)

Print Name: [REDACTED]

Signature: [REDACTED]

Phone #: [REDACTED]

Email: [REDACTED]

## CONTACT INFORMATION

(public use)

Phone #: Click or tap here to enter text.

Email: Click or tap here to enter text.

Website: Click or tap here to enter text.

All fields with an \* are required.

Rev. 8/2022

JAN 10 2024

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**IMPARTIAL ANALYSIS BY COUNTY COUNSEL**

**COUNTY OF ALAMEDA CHARTER AMENDMENT**

The Board of Supervisors of the County of Alameda placed this Measure on the ballot. The Measure proposes to amend the County of Alameda Charter to replace the current Charter language regarding the recall of elective and appointive County officers with Charter language that would instead rely upon California state law governing the recall of County elected officers.

The California State Constitution, Article XI, Section 4, paragraph (c) allows a county charter to provide for the election and removal of elected and appointed County officers. In the County of Alameda, Section 62 of the Charter governs the recall of Alameda County officers. The Board of Supervisors for the County of Alameda cannot change or amend the Charter without voter approval.

The County of Alameda Charter currently has a procedure to recall both elective and appointive officers from the County. The Charter sets the number of signatories of the recall petition to be equal to at least fifteen percent of the entire vote cast within the County for all candidates for the most recent election for Governor of the State.

Several provisions in the current Charter recall provision (Section 62) are either outdated or possibly unlawful, creating uncertainty about how an election pursuant to its provisions would proceed. For example, it is unlikely that the current Charter provision requiring people who circulate recall petitions for County officers to be registered voters of Alameda County complies with current law. The United States Supreme Court has found similar requirements for circulating petitions unconstitutional. In addition, some timelines for the recall election in the current Charter -- including the number of days the Registrar of Voters has to verify petition signatures (ten) and the requirement that the election take place 35 to 40 days after the Board of Supervisors calls for the election -- are shorter than

those commonly used in current California local elections. Current state law provides the Registrar of Voters with 30 days to verify petition signatures and in most circumstances provides for an election to take place within 88 to 125 days of the call to hold the election. As a result, the current Charter's provisions create uncertainty about how a recall election would proceed pursuant to the Charter's terms. The Registrar of Voters would need to reconcile these provisions to create a process consistent with existing law.

If this Measure is approved by the majority of the votes cast, those County of Alameda Charter provisions referred to above would be deleted. Section 62 of the Charter would instead, in its entirety, state: "California state law applicable to the recall of County officers shall govern the recall of County of Alameda elected officers."

A "yes" vote on this Measure is a vote in favor of the Measure's adoption and would result in the provisions of California state law governing recall elections for County elected officers. Appointive County officers would no longer be subject to Alameda County Charter recall procedures. A "no" vote on this Measure is a vote against the Measure's adoption.

Dated: \_\_\_\_\_

---

BRIAN E. WASHINGTON  
County Counsel, County of Marin

\*This Impartial Analysis is provided by the Marin County Counsel's Office at the request of the Office of the Alameda County Counsel.

## **Ballot Argument – Alameda County – Recall Ballot Measure – March 2024 Election**

Vote YES on Measure \_\_\_\_.

Section 62 of the County of Alameda Charter governs recall elections within the County. It was passed in 1926 and has not been amended since. Measure \_\_\_\_ will amend Section 62, by adopting CA state law to govern recall elections.

We are the only county in California that has recall election rules that substantially deviate from state law's key recall procedures. Adopting state law would make Alameda County's key recall laws and procedures the same as other counties in California.

Using the California state rules will make the recall election rules clearer and more transparent. This will help avoid long and expensive legal battles. Adopting state law would fix the incomplete and the unconstitutional parts of the County Charter recall election rules. It would also set reasonable timelines and procedures that work with today's larger population and voting processes.

One more change is that recalls would apply to elected officers, not appointed ones. This matches California state law. We do not support using recalls to remove appointed officers. Elected officers are the people we can and should hold accountable for the work of the people they appoint.

Section 62 of the Charter needs to be updated now. This need will continue to exist whether or not there are any recalls underway. Any recall efforts that submit their signatures by March 5, 2024, will move forward. Updating the recall rules now won't stop these efforts.

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Submission of: (select one)

[X] Argument in Favor (300 words or less)
[ ] Argument Against (300 words or less)

Measure letter:
Title of Election: Presidential Primary Election
Jurisdiction: County of Alameda
Election Date: March 5, 2024

Submitted by: (select one)

- [X] The Governing Body of Alameda County, a school district, or a special district
[ ] Bona Fide Organization
[ ] Individual(s) eligible to vote on the measure

Indicate County Board Member or Specific District: (if applicable)
Name of Organization/Association: (if applicable)

County of Alameda Board of Supervisors

Contact Person's Printed Name:
Address:
Title:
Phone #:
Fax #: n/a
E-Mail:

Permission to Post Contact Information on Internet

[ ] Grant [X] Deny

Permission to the Alameda County Registrar of Voters to post the below listed information on the Alameda County Registrar of Voters internet site.

INFORMATION TO BE POSTED:

Name:(Print) Address:
Phone #: Fax #:
E-Mail Address: Website Address:
Signature: Date:

# Argument/Rebuttal Signatures

Official Use Only: Date Stamp

Submitted by:

Name: [Redacted] Phone#: [Redacted]  
 Email: [Redacted]

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**DEC 13 2023**  
**Reg. of Voters**

No more than five signatures shall appear with any argument submitted. If more than five are submitted, only the first five will appear on the voter information pamphlet.

Names and titles listed will be printed in the order that they are listed in below.

## DECLARATION BY AUTHOR(S) OF ARGUMENTS OR REBUTTALS (Election Code Section 9600)

The undersigned author(s) of the argument:

Measure \_\_\_\_\_ Election Date: March 5, 2024 Jurisdiction: County of Alameda

- Argument in Favor (300 words or less)
- Rebuttal to Argument Against (250 words or less)
- Argument Against Measure (300 words or less)
- Rebuttal to Argument in Favor (250 words or less)

Hereby state that such argument is true and correct to the best of (his/her/their) knowledge and belief.

The Governing Body of Alameda County, a school district, or a special district  
 Bona Fide Organization  
 Individual (s) eligible to vote on the measure

1.	Print Name: <b>Lena Tam</b>	Title: Supervisor, District 3, County of Alameda Board of Supervisors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/07/2023</b>			
2.	Print Name: <b>Elisa Marquez</b>	Title: <b>Supervisor District 2 Alameda County</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/7/23</b>			
3.	Print Name: <b>Keith Carson</b>	Title: <b>Member Bd. of Supervisors</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/11/2023</b>			
4.	Print Name: <b>Helen L. Hutchison</b>	Title: <b>Chair, League of Women Voters Alameda County Council</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/8/23</b>			
5.	Print Name: <b>Rebecca Perata</b>	Title: <b>Board Member, Alameda Economic Chamber &amp; Alliance</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/12/23</b>			



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## Rebuttal to Argument For Measure B

Vote NO.

**Measure B limits *your* Alameda County recall rights.** Existing law has worked well for 97 years holding officials accountable. ***Measure B would gut this law.***

Alameda County Supervisors are pushing to expand their political power. As professional politicians, they especially dislike the People having strong recall authority.

If Supervisors are so concerned about flaws in existing Alameda County recall law, they should instead put forward “surgical amendments” targeted to fix the small parts that need modification. They shouldn’t **destroy our entire Alameda County recall law.**

**The supporters’ Argument is extremely misleading.** It claims that “any recalls underway ... will move forward” and that Measure B “won’t stop these efforts.”

In reality, **Measure B throws a monkey wrench into recalls** now in progress, by **changing the law mid-process.** If Measure B passes:

- Countywide recalls would require many more signatures, which could **disqualify any recalls underway.**
- **Your right to elect a replacement for a recalled official would be taken away** and given to the same three County Supervisors who approved Measure B.
- Measure B’s supporters openly admit that **you would lose your right to recall anyone whom Supervisors appoint.**

The supporters incorrectly argue that we are “the only county” that has different recall election rules than California law. That’s FALSE. The **San Francisco, Santa Clara, San Mateo and Sacramento County Charters also have special recall rules.** Like Alameda County, San Francisco allows recall of unelected administrators.

Neighboring counties’ citizens carefully guard their special recall rights. The People of Alameda County should, too.

**Join Supervisors Nate Miley and David Haubert, and our grassroots coalition, in voting NO on Measure B.**

# Argument/Rebuttal Signatures

Official Use Only: Date Stamp

Submitted by:

Name: [Redacted] Phone: [Redacted]  
 Email: [Redacted]

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**Reg. of Voters**

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## DECLARATION BY AUTHOR(S) OF ARGUMENTS OR REBUTTALS (Election Code Section 9600)

The undersigned author(s) of the argument:

Measure B Election Date: 3/5/2024 Jurisdiction: Alameda County

- Argument in Favor (300 words or less)
- Rebuttal to Argument Against (250 words or less)
- Argument Against Measure (300 words or less)
- Rebuttal to Argument in Favor (250 words or less)

Hereby state that such argument is true and correct to the best of (his/her/their) knowledge and belief.

The Governing Body of Alameda County,  
 a school district, or a special district  
 Bona Fide Organization  
 Individual (s) eligible to vote on the  
 measure

1.	Print Name: <b>Marcus Crawley</b>	Title: President-Alameda County Taxpayers' Assoc. (ACTA)			
	Residence Address: [Redacted]		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Signature: <i>Marcus Crawley</i>	Date: 12/17/2023			
2.	Print Name: <b>Jacqueline Carron-Cota</b>	Title: <b>Chair-EITACCA</b>			
	Residence Address: [Redacted]		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Signature: <i>J. Carron-Cota</i>	Date: 12/17/2023			
3.	Print Name: <b>Edward Escobar</b>	Title: Founder-#CitizensUnite			
	Residence Address: [Redacted]		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Signature: [Redacted]	Date: 12/17/2023			
4.	Print Name: <b>Kathy Park</b>	Title: Member-Alameda County Committee of Open Government			
	Residence Address: [Redacted]		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Signature: [Redacted]	Date: 12/18/2023			
5.	Print Name:	Title:			
	Residence Address:		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Signature:	Date:			



DEC 13 2023

Reg. of Voters

Argument Against Alameda County Charter Amendment – Section 62 – Recall]

**Vote NO on Measure B. Stop this Power Grab by Alameda County politicians!**

Progressive reformers in 1926 added the recall power to our County Charter (Section 62) to stop corporations and special interests from controlling our government. Recalls provide essential checks and balances against abusive officials.

Recalls allow the People to gather signatures and rapidly call a special election to remove and replace a bad government official. **Measure B would greatly reduce your recall power.**

Recall campaigns are underway right now. Three County Supervisors rushed Measure B onto this ballot to hinder them. They are unfairly changing the recall law in the middle of the process. *Supervisors Nate Miley and David Haubert oppose Measure B.*

**Measure B makes it much more difficult to recall bad public officials.** The facts:

- Measure B would require 27 percent more signatures (92,942 total) to qualify a countywide recall. *That's too much!*
- Measure B could delay recall elections by several months. *That gives bad officials more time to mishandle their jobs, harming you.*
- Measure B eliminates the People's right to elect a replacement for the recalled politician. Instead, County Supervisors get to appoint a replacement. *They're grabbing your power for themselves.*
- **Measure B has a MAJOR loophole.** *Supervisors could overturn any recall election by appointing the removed official back to the very same office!*
- The County's attorney has determined that "appointed" politicians are exempt from rules that apply to "elected" officials. *That means that no "appointed" replacement can be recalled!*
- Measure B would take away the People's right to recall appointed department heads who abuse their power. In 1926, Alameda County voters were guaranteed: "The charter would give the people the right to recall any appointee of the board." *Measure B breaks that century-old promise!*

**We are a grassroots coalition of "good government" watchdogs, justice advocates, and crime victims. We urge you to vote NO.**



B LOT MEASURE ARGUMENT

SUBMISSION FORM

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Submission of: (select one)

Argument in Favor
(300 words or less)

Argument Against
(300 words or less)

Measure letter: B

Title of Election: Alameda Co. Charter Amdt. Recall Measure

Jurisdiction: County of Alameda

Election Date: March 5, 2024

Submitted by: (select one)

The Governing Body of Alameda County, a school district, or a special district
A governing board member who signs an argument must be authorized to do so by the governing board.

Bona Fide Organization
Arguments from a bona fide organization must be signed by one of the principal officers. The individual signing an argument on behalf of a bona fide organization does not have to be a registered voter in the jurisdiction.

Individual(s) eligible to vote on the measure
Individual(s) signing an argument must be registered voters eligible to vote on the measure.

Indicate County Board Member or Specific District: (if applicable)
Name of Organization/Association: (if applicable)

Alameda County Taxpayers' Association, Inc.

Contact Person's Printed Name:

Address:

Title:

Fax #:

E-Mail:

Permission to Post Contact Information on Internet

Grant Deny

Permission to the Alameda County Registrar of Voters to post the below listed information on the Alameda County Registrar of Voters internet site.

INFORMATION TO BE POSTED:

Table with contact information for Marcus Crawley, President-ACTA, including name, address, phone, fax, email, website, and date (December 13, 2023).

# Argument/Rebuttal Signatures

Official Use Only: Date Stamp

Submitted by:

Name: [Redacted] Phone: [Redacted]

Email: [Redacted]

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The undersigned author(s) of the argument:

Measure B Election Date: 3/5/2024 Jurisdiction: County of Alameda

Argument in Favor  
(300 words or less)

Argument Against Measure  
(300 words or less)

Rebuttal to Argument Against  
(250 words or less)

Rebuttal to Argument in Favor  
(250 words or less)

Hereby state that such argument is true and correct to the best of (his/her/their) knowledge and belief.

The Governing Body of Alameda County,  
a school district, or a special district

Bona Fide Organization

Individual (s) eligible to vote on the  
measure

1.	Print Name: <b>Marcus Crawley</b>	Title: <b>President-Alameda County Taxpayers' Assoc.(ACTA)</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Residence Address: [Redacted]					
Signature: [Redacted]		Date: <b>12/13/2023</b>			

2.	Print Name: <b>Jacqueline Carron-Cota</b>	Title: <b>Chair-EITACCA</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Residence Address: [Redacted]					
Signature: [Redacted]		Date: <b>12/13/2023</b>			

3.	Print Name: <b>Edward Escobar</b>	Title: <b>Founder-#CitizensUnite</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Residence Address: [Redacted]					
Signature: [Redacted]		Date: <b>12/13/2023</b>			

4.	Print Name: [Redacted]	Title: [Redacted]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Residence Address: [Redacted]					
Signature: [Redacted]		Date: [Redacted]			

5.	Print Name: [Redacted]	Title: [Redacted]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Residence Address: [Redacted]					
Signature: [Redacted]		Date: [Redacted]			



Everyone supports an orderly, transparent, and fair recall process. Measure B simply aligns Alameda County's recall process with state law. Measure B implements a process identical to that of every other county in the state.

Alameda County's recall provisions are outdated, likely illegal as written, and need to be fixed. The simplest and least costly course of action is to replace the existing recall provisions (Section 62) with those identified in state law.

No Alameda County recall election has ever been held, so Alameda County's existing recall provisions have never been tested. Here's what we know: two of its provisions have been found unconstitutional by the U.S. Supreme Court. Other provisions reference state laws that no longer exist. It's a mess - and it will be challenged in the courts if we don't fix it! We need voter approval of Measure B to avoid costly legal battles at taxpayer expense.

The Current Recall Provisions were written in 1926, when

- Alameda County's population was just 1/4 of what it is now (400,000 vs. 1,600,000)
- Elections did not comply with the Voting Rights Act (1965)
- Election materials were in English. Today, they're provided in 13 languages.
- Asians were largely barred from U.S. citizenship and unable to vote, Black and Latino citizens had virtually no civil rights protections.

That's not progressive.

The rules for recalls currently underway will not change as long as they submit their signatures by March 5. Let's comply with state law and standardize our recall process.

Vote YES on Measure B.

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**Alameda County**

**DEC 18 2023**

**Reg. of Voters**

# Argument/Rebuttal Signatures

Submitted by:

Name: [Redacted] Phone: [Redacted]  
 Email: [Redacted]

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- Argument Against Measure (300 words or less)
- Rebuttal to Argument in Favor (250 words or less)

Hereby state that such argument is true and correct to the best of (his/her/their) knowledge and belief.

The Governing Body of Alameda County, a school district, or a special district  
 Bona Fide Organization  
 Individual (s) eligible to vote on the measure

1.	Print Name: <b>Lena Tam</b>	Title: <b>Supervisor, District 3, County of Alameda</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/15/2023</b>			
2.	Print Name: <b>Elisa Marquez</b>	Title: <b>Supervisor, District 2, Alameda County</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/18/2023</b>			
3.	Print Name: <b>Keith Carson</b>	Title: <b>Supervisor, District 5, Alameda County</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/18/2023</b>			
4.	Print Name: <b>Helen Hutchinson</b>	Title: <b>Chair, League of Women Voters, Alameda County Council</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/18/2023</b>			
5.	Print Name: <b>Rebecca Perata</b>	Title: <b>Boardmember, Alameda Chamber of Commerce</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Residence Address: [Redacted]				
	Signature: [Redacted]	Date: <b>12/16/23</b>			

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Full text of County of Alameda Measure \_\_

MEASURE \_\_\_\_\_

This Measure \_\_\_ will become effective only if submitted to the voters at the election held on March 5, 2024, and only after approval by a majority of the qualified voters voting in the election on the issue.

The Charter Amendment will take effect as provided for in sections 23713, 23714 and 23724 of the Government Code.

Section 62 of the Charter of the County of Alameda is amended to read, in its entirety, as follows:

Section 62.

California state law applicable to the recall of County officers shall govern the recall of County of Alameda elected officers.



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# ALAMEDA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

The following action was taken by the Alameda County Board of Supervisors on 11/28/2023

Approved as Recommended  Other

Item A read title, waived the reading of the Ordinance in its entirety and adopted Ordinance O-2023-58; Item B approved as recommended

Unanimous  Tam:  Haubert:  Miley:  Márquez:  Carson:  -  3

Vote Key: N=No; A=Abstain; X=Excused

### Documents accompanying this matter:

Ordinance: O-2023-58  
Resolution: R-2023-619

### Documents to be signed by Agency/Purchasing Agent:

File No. 31104  
Item No. 26

### Copies sent to:

Ellen Duenas, Qic 20104 and  
ROV (hand delivered on 12/4/23)

### Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:  
Clerk of the Board  
Board of Supervisors

By: \_\_\_\_\_  
Deputy



# OFFICE OF THE COUNTY COUNSEL

1221 Oak Street, Suite 450, Oakland, California 94612-4296

Telephone (510) 272-6700

Facsimile (510) 272-5020

DONNA R. ZIEGLER  
COUNTY COUNSEL

Agenda # 26 November 14, 2023

November 9, 2023

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Honorable Board of Supervisors  
County of Alameda  
1221 Oak Street, Suite 536  
Oakland, California 94612-4305

SUBJECT: ADOPT AN ORDINANCE AND RESOLUTION TO AMEND SECTION 62 OF THE COUNTY OF ALAMEDA CHARTER AND CALL A SPECIAL ELECTION TO BE CONSOLIDATED WITH THE MARCH 5, 2024, PRIMARY ELECTION, FOR THE PURPOSES OF SUBMITTING THE PROPOSED AMENDMENT TO THE VOTERS FOR APPROVAL

Dear Board Members:

## **RECOMMENDATION:**

- A. Adopt an Ordinance calling for a special election to be consolidated with the statewide election to be held on March 5, 2024, for the purpose of submitting a measure to the voters of the County of Alameda ("County") on the question of whether the Charter of the County should be amended by replacing the language of County Charter Section 62, in its entirety, with the following: "California state law applicable to the recall of county officers shall govern the recall of County of Alameda elected officers."
- B. Adopt a resolution and order calling for and giving notice of a special election to be consolidated with the statewide election to be held on March 5, 2024, to amend County of Alameda Charter, Section 62, by replacing the language of County Charter Section 62, in its entirety, with the following: "California state law applicable to the recall of county officers shall govern the recall of County of Alameda elected officers."

## **SUMMARY:**

Section 23720 of the Government Code provides that the County Charter may be amended by a proposal submitted either by the governing body or by a petition signed by 10% of the qualified electorate within the County. The proposed ordinance and resolution would call for a special election to be held on March 5, 2024, consolidated with the

statewide Primary Election, for the purpose of submitting to the voters of the County the question of whether the County Charter should be amended.

**DISCUSSION:**

The County of Alameda is a charter county. Generally, a county's charter supersedes state law, and a county is bound to follow its charter where the two conflict. The voters of a charter county must authorize any amendment to a county charter. A Board of Supervisors lacks the authority to amend a charter absent voter approval. This action seeks to perfect amendments to Section 62 of the County of Alameda Charter by authorizing an election to obtain voter approval of proposed amendments, for the reasons explained in detail below.

Section 62 of the County's Charter prescribes the procedure to recall a County officer and applies to both "elective *and appointive*" officers. A thorough review of Section 62 of the Charter reveals that Section 62, for all intents and purposes, is out of date. It is out of alignment with the recall procedures found in state law and found in all other charter counties in the state. Additionally, the County of Alameda Charter allows for the removal of specified appointed County officers, unlike most other counties in California. And, significantly, due to the growth of the County over many decades, and the changes to election law, including changes to the manner in which elections are conducted, it is likely unfeasible to carry out a recall election in the manner outlined in the charter.

In order to provide the public and the Registrar of Voters with clear and achievable standards for conducting a recall, and to exclude specified appointed County officers from being subject to recall, it is recommended that your Board: 1) adopt an ordinance to amend the Charter by replacing the County's current recall procedures with the recall procedures prescribed in state law; 2) not include appointed County officers in the scope of officers who can be recalled using the State law procedures; and 3) call for the necessary special election to perfect the amendments. Amending Section 62 to adopt state law procedures for recalling county officers will bring clarity to all regarding the procedures, timing, and rules that will apply to recalls of County of Alameda officers. This change will codify a transparent recall process, and benefit the public generally, proponents of any recall, a target of a recall, and opponents of a recall, by substantially reducing the likelihood of costly litigation that could arise due to the current outdated standards.

**PROBLEMS WITH SECTION 62 OF THE CHARTER:**

**Unconstitutional Provisions.** Courts have held that *at least two* provisions of Section 62 are unconstitutional when applied to other types of elections. These rulings create uncertainty as to whether these provisions should, or can, be followed when conducting a recall election.



- Section 62 requires petition circulators to be registered voters of the County. The U.S. Supreme Court has held that a similar requirement for circulating initiative petitions was unconstitutional. State law requires only that a petition circulator be 18 years of age or older. The proposed amendment to follow state law would substantially lessen the risk that any recall election would be subject to legal challenge on the grounds that the procedures followed were unconstitutional.
- Section 62 requires that “no vote shall be counted for any candidate for said office unless the voter also voted on the question of the recall of the person sought to be recalled . . . .” This language was also held to be unconstitutional. In striking the language, the court allowed voters who skipped the recall question to vote on a candidate. Adopting state law eliminates the risk that the form of ballot prescribed by Section 62 would subject a recall election to legal challenge as unconstitutional. Under state law, the question of the recall is presented to the voters without any candidates appearing on the ballot. If a majority of voters vote for the recall, the official is recalled, and a vacancy is created. Candidates need not mount a campaign without knowing whether the official has been recalled.

**Missing Procedures.** Section 62 is silent on key procedures for a recall. A recall generally has three broad stages: (1) the time before circulating a petition; (2) the gathering and verification of the signatures; and (3) the recall election (if enough valid signatures are gathered). Section 62 is completely silent on the pre-circulation procedures.

- The pre-circulation procedures in state law provide important transparency measures as a practical matter. They provide notice to the public, identify the target of the recall, allow the target to answer the petition, give the elections official the opportunity to vet the form of the petition, and allow the public time to challenge the form and content of the petition. These steps and this level of transparency may serve to reduce the likelihood of post-election legal challenges. State law fills in these pieces that are missing from the Charter and provides consistent practices to follow.
- Section 62 has none of these pre-circulation procedures. It starts with a “petition demanding the election or appointment of a successor to the person sought to be recalled shall be filed with the County Clerk [the Registrar of Voters], which petition shall be signed by [the required number of electors].” In other words, Section 62 begins at the verification stage. There is no notice to the public or the target of the recall, no service of notice, no answer by the recall target, no vetting of the proposed petition by the elections official, no publication, and no prescribed opportunity or timeline to challenge the proposed petition. This means there are no

prescribed safeguards and checks and balances that may resolve defects in the process *before* an election has occurred.

- The proposed amendment to adopt state law ensures that the rules and procedures for all stages of the recall may be known to (1) the public, (2) proponents of any recall, (3) the target of any recall, and (4) opponents of a recall. State law increases transparency by ensuring all relevant stakeholders know that a recall effort is underway.

**Unfeasibility.** Section 62's recall procedures may not be feasible because election law has evolved over the many decades since Section 62 was adopted.

- Section 62 requires that nominees to replace a recalled official be placed on the same ballot as the recall and cites to "Section 1188 of the Political Code" to define the process for nominees to qualify for the ballot. But Section 1188 is a state law that no longer exists. This leaves a gap in the recall procedures and no direction for qualifying nominees. State law does not allow nominees for local offices to be placed on the same ballot as the recall election. Instead, if the recall passes, it creates a vacancy for that office. The vacancy may be filled by the rules governing the local jurisdiction. Adopting state law will provide procedural clarity, transparency for all, and close the gap.
- Section 62 specifies a turnaround time for the Registrar of Voters to verify petition signatures that is impractical and likely unattainable for a jurisdiction that, in the decades following Section 62's adoption, has grown to the size of Alameda County today—approximately 1.65 million people. Section 62 could lead to proponents of a recall gathering tens of thousands of signatures, possibly over 100,000, to qualify a recall for the ballot. But it only allows the elections official 10 days to verify sufficient signatures. The elections official is highly unlikely to verify the signatures needed within the 10-day deadline. The failure to verify signatures timely could lead to costly litigation. State law allows 30 days. Adopting state law's longer timeframe may avoid costly pre- or post-election litigation because it provides the Registrar of Voters more time to complete the verification process.
- Section 62 requires the election to take place within 35 to 40 days of the Board of Supervisors calling the election. As a practical matter, it is likely not possible to prepare, print, translate, and mail ballots to the over 900,000 registered voters of the County within 35-40 days, while at the same time hiring and training staff, and standing up vote centers for in person voting. The quick turnaround may also conflict with the timelines mandated by the Elections Code for such things as mailing and sending the voter information guide and overseas and military ballots, election requirements that the

Registrar of Voters currently follows. Adopting state law would provide the Registrar of Voters not less than 88 days and in certain instances as many as 180 days to conduct the election. Adopting the state law timelines provides a more reasonable and doable timeframe to ensure that any recall election could be executed within the timelines provided by law and substantially reduces the risk of litigation over unmet timelines.

- Adopting state law will automatically conform the recall procedures and timelines with those of the Elections Code (and of other counties, see below). Moreover, as the California Legislature updates and amends state law, those updates and amendments will automatically apply in Alameda County. In other words, by incorporating state law, any future changes will be applicable to County recalls, and reduce the potential for costly Charter amendment updates and reduce the risk of the Charter, again, falling out of date with the times and growth of the County.

**Other Charter Counties.** There are 14 charter counties in California. Three of these counties' charters do not include recall provisions, which means state law automatically governs recalls in those counties. The remainder refer to and incorporate state law to govern their recalls. The County of Alameda is the only charter county with recall provisions that completely deviate from (and are at odds with) the state law and current constitutional law. Adopting this amendment will align the County of Alameda with all other charter counties and non-charter counties in the state regarding the key steps for conducting a recall election.

**Other Counties.** State law does not include county appointive/appointed<sup>1</sup> officers in the scope of those who are subject to recall. They are eligible for recall in the County of Alameda solely because of Charter Section 62. Because the Board of Supervisors is able to remove County appointed officers without the need of a costly election, it is reasonable not to make those officers subject to recall. This would align with most if not all general law counties in California and most charter counties.

## **FINANCING:**

The net County cost for placing the measure on the ballot is not known at this time, and will be determined, in part, upon any future jurisdictional consolidation. No additional appropriations are required, and we anticipate funds will be available in the FY 2023-24 Approved Budget to cover the costs resulting from the recommendation.

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<sup>1</sup> We use the terms "appointive" and "appointed" interchangeably in reference to amending Charter Section 62, as we understand them to have the same meaning when using "appointed" in place of "appointive" in the proposed amendment to Section 62. The same applies to "elected" in place of "elective" in reference to any proposed amendment to Charter 62 in this Board letter and in the Board letters presented to the Board of Supervisors in October of 2023 regarding amending Section 62.)

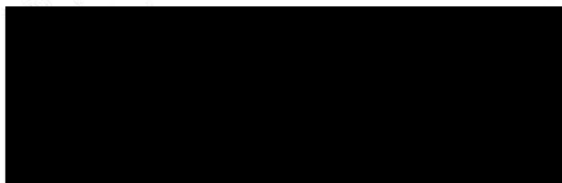


**VISION 2026 GOAL:**

The proposed Charter amendment supports the goal of Accessible Infrastructure by updating applicable recall procedures to modern day standards. It eliminates decades old procedures that, 1) do not integrate well with the way elections are conducted today, and 2) that are a detriment to ensuring that lawful, competent, and timely recalls may be conducted.

**CONCLUSION:**

County of Alameda Charter Section 62 is out of date. Adopting the recommendations in *this letter* will allow a Charter amendment to be placed on the ballot that aligns the County's recall procedures with California state law procedures *and* no longer allow County of Alameda appointed officers to be recalled.



County Counsel

cc: County Administrator  
Registrar of Voters

RECEIVED  
Alameda County

DEC 06 2023

Reg. of Voters

ORDINANCE NO. 2023-58

AN ORDINANCE CALLING A SPECIAL ELECTION TO BE HELD ON MARCH 5, 2024, THROUGHOUT THE COUNTY OF ALAMEDA FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF ALAMEDA COUNTY THE QUESTION OF WHETHER THE COUNTY OF ALAMEDA CHARTER SHOULD BE AMENDED AND DIRECTING THE CONSOLIDATION OF THE ELECTION WITH THE STATEWIDE ELECTION TO BE HELD ON THE SAME DAY

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION I – Call of the Election and Purpose**

A special election is hereby called, proclaimed, and ordered to be held on March 5, 2024, throughout the County of Alameda, for the purpose of voting upon a proposed amendment to the Charter of the County of Alameda as set forth in Section II. Said election is hereby consolidated with the State of California Primary Election to be held on said date throughout the State of California, said special election to be held in conjunction therewith insofar as the territory in which elections are to be held is the same, to wit, within the boundaries of the County of Alameda, State of California.

The election shall be held in all respects as though there were only one election in accordance with the provisions of section 10403 of the Elections Code of the State of California. The consolidated election will be held and conducted in the manner prescribed in section 10418 of the Elections Code of the State of California. When the results of said special election are ascertained, the Registrar of Voters of the County of Alameda ("Registrar of Voters") is hereby authorized and directed to certify the same to the Board of Supervisors of the County of Alameda.

**SECTION II – Form of Measure**

The Registrar of Voters is hereby instructed to print on the sample ballots and on the official ballots for said election the measure to be voted upon in substantially the following form, to wit:

PROPOSED ALAMEDA COUNTY CHARTER AMENDMENT

CHARTER AMENDMENT - ADOPTING STATE LAW RECALL PROCEDURES FOR USE IN ALAMEDA COUNTY. Shall Section 62 of the County of Alameda Charter governing the recall of elective and appointive County officers be amended by replacing the current language, in its entirety, with "California state law applicable to the recall of county officers shall govern the recall of County of Alameda elected officers"?	YES
	NO

A copy of the full text of County of Alameda Measure \_\_\_\_ is attached hereto and incorporated herein.

**SECTION III**

This Ordinance shall take effect immediately upon its adoption in accordance with the provisions of Government Code section 25123(a) and 25124 and Elections Code 9141. Before the expiration of 15 days after its passage, it shall be published once with the names of the members voting for and against the same in, a newspaper of general circulation published in the County of Alameda.

The Clerk of the Board of Supervisors is ordered to file a copy of this ordinance with the County Registrar of Voters at least 88 days prior to the date of the election.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on this 28 day of November 2023, by the following called vote:

AYES: Supervisors Carson, Marquez & Tam - 3

NOES: Supervisor Haubert & President Miley - 2

EXCUSED: None

Approved as to Form

D [REDACTED] Counsel

B

Print Name RAY LARA



**Full text of County of Alameda Measure \_\_**

**MEASURE \_\_\_\_\_**

This Measure \_\_\_\_ will become effective only if submitted to the voters at the election held on March 5, 2024, and only after approval by a majority of the qualified voters voting in the election on the issue.

The Charter Amendment will take effect as provided for in sections 23713, 23714 and 23724 of the Government Code.

Section 62 of the Charter of the County of Alameda is amended to read, in its entirety, as follows:

Section 62.

California state law applicable to the recall of County officers shall govern the recall of County of Alameda elected officers.

DEC 06 2023

RESOLUTION NO. R-2023- 619

**Reg. of Voters**

A RESOLUTION AND ORDER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, APPROVING AN ORDINANCE AND CALLING FOR AND GIVING NOTICE OF A SPECIAL ELECTION AND PLACING A MEASURE ON THE BALLOT TO BE SUBMITTED TO THE QUALIFIED ELECTORS OF ALAMEDA COUNTY TO AMEND COUNTY CHARTER SECTION 62 GOVERNING RECALL OF COUNTY OFFICERS; AND CONSOLIDATING THE ELECTION WITH OTHER ELECTIONS ON MARCH 5, 2024; FIXING THE DATE AND MANNER OF THE ELECTION AND THE PROCEDURE FOR VOTING THEREIN

**WHEREAS**, the County of Alameda ("County") is a charter county;

**WHEREAS**, California State Constitution, Article XI, Section 4, paragraph (c) allows a county charter to provide for the election and removal of elected and appointed County officers;

**WHEREAS**, Section 62 of the County Charter governs the recall of County officers;

**WHEREAS**, certain provisions of Section 62 of the County Charter are outdated, reference state law provisions that are no longer in effect, have been declared unconstitutional in other contexts, are silent on several key procedures for recall as outlined in state law, and may not be feasible to execute;

**WHEREAS**, other charter counties throughout the state have adopted state law to apply to the recall of their county officers;

**WHEREAS**, the Board of Supervisors ("Board") cannot change or amend the County Charter without voter approval;

**WHEREAS**, the Board has determined that it is in the County's best interest to adopt state law to govern the recall of County elected officers and to no longer subject appointed officers to recall;

**WHEREAS**, adopting state law will provide greater transparency regarding applicable recall procedures for the public generally, proponents of any recall, opponents of any recall, and any target of a recall;

**WHEREAS**, adopting state law will align the County's recall procedures with the other counties in California and create achievable standards for conducting recalls;

**NOW, THEREFORE, THIS BOARD OF SUPERVISORS HEREBY RESOLVES AND ORDERS AS FOLLOWS:**

**Section 1.** The Board hereby finds and determines that the foregoing recitals are true and correct.

**Section 2. Call of the Election and Purpose.** A special election shall be held and the same is hereby called and ordered to be held throughout the County on the 5th day of March 2024, for the purpose of submitting to the voters of the County by ordinance the question of whether Section 62 of the County of Alameda Charter governing the recall of elective and appointive County officers shall be amended to adopt state law for the recall of County elected officers as provided in the attached ordinance, Attachment A (hereinafter "Ordinance").

**Section 3. Ordinance.** The attached Ordinance calling for the election to amend Section 62 of the County Charter is incorporated herein by reference.

**Section 4. Ballot Measure.** The Board orders that the measure to amend the County Charter by ordinance shall appear on the ballot substantially as follows:

**BALLOT QUESTION: CHARTER AMENDMENT – ADOPTING STATE LAW RECALL PROCEDURES FOR USE IN ALAMEDA COUNTY.** Shall Section 62 of the County of Alameda Charter governing the recall of elective and appointive County officers be amended by replacing the current language, in its entirety, with “California state law applicable to the recall of county officers shall govern the recall of County of Alameda elected officers”?

Yes \_\_\_ No \_\_\_

**Section 5. Consolidation.** The Board hereby submits the ballot question and the measure to the qualified electors of the County at the Election in the form set forth above. The special election called by this resolution shall be consolidated with the other elections conducted by the Registrar of Voters to be held in the County on March 5, 2024, and the ordinance amending the County Charter shall be placed on the same ballot as that provided for the primary election. The Consolidated Election shall be held and conducted in the manner prescribed in section 10418 of the Elections Code of the State of California. The votes received and canvassed, and the results ascertained and determined all in the same manner as the statewide election to be held on that date and in conformity with the election laws of the State of California. Only qualified electors of the County may vote on the measure.

**Section 6. Election Procedure.** All qualified voters residing in the County shall be permitted to vote in the election and in all particulars not recited in this resolution, the elections shall be held as nearly as practicable in conformity with the Elections Code of the State of California. The votes cast for and against the measure shall be separately counted and if the measure receives a majority of the votes cast by the qualified electors voting on the measure, the measure amending the County Charter shall be effective pursuant to sections 23713, 23714 and 23724 of the Government Code. Should another proposed measure with conflicting provisions appear on the same ballot, and each proposed measure receives a majority of votes, the proposed measure with the highest number of affirmative votes shall prevail, in conformity with section 9123 of the Elections Code.

**Section 7. Authority.** This resolution is adopted pursuant to sections 10403 and 12001 of the Elections Code and section 25201 of the Government Code. The Clerk of the Board of Supervisors is ordered to file a copy of this resolution with the Registrar of Voters at least eighty-eight (88) days prior to the day of the election. The Registrar of Voters is authorized, instructed, and directed to prepare any documents and take any additional actions that may be necessary in order to properly and lawfully conduct the election.

**Section 8.** The Clerk of the Board is directed to file a certified copy of this Resolution with the Registrar of Voters and the Registrar of Voters is authorized and directed to take all steps necessary to place the Ordinance on the ballot and to cause the Ordinance to be printed in the sample ballot. A copy of the Ordinance shall be made available to any voter upon request.



**Section 9. Proclamation.** Pursuant to section 12001 of the Elections Code, the Board hereby PROCLAIMS that a special Countywide election shall be held on Tuesday, March 5, 2024, to vote upon the Charter Amendment described in the Ordinance.

**Section 10.** This Resolution and Order relating to an election shall take effect immediately.

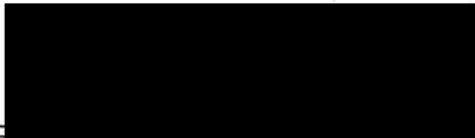
The foregoing Resolution and Order was passed and adopted by the Board of Supervisors of Alameda County, State of California on the 28<sup>th</sup> day of November, 2023 by the following vote:

AYES: Supervisors Carson, Marquez & Tam - 3

NOES: Supervisor Haubert & President Miley - 2

EXCUSED: None

ABSTAINED: None

  
\_\_\_\_\_  
President of the Board of Supervisors  
County of Alameda, State of California

ATTEST:

ANIKA CAMPBELL-BELTON, Clerk  
of the Board of Supervisors, County of Alameda

By: 

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

\_\_\_\_\_  
Raymond Lara  
Senior Deputy County Counsel

EXHIBIT A

ORDINANCE NO.

AN ORDINANCE CALLING A SPECIAL ELECTION TO BE HELD ON MARCH 5, 2024, THROUGHOUT THE COUNTY OF ALAMEDA FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF ALAMEDA COUNTY THE QUESTION OF WHETHER THE COUNTY OF ALAMEDA CHARTER SHOULD BE AMENDED AND DIRECTING THE CONSOLIDATION OF THE ELECTION WITH THE STATEWIDE ELECTION TO BE HELD ON THE SAME DAY

The Board of Supervisors of the County of Alameda ordains as follows:

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The election shall be held in all respects as though there were only one election in accordance with the provisions of section 10403 of the Elections Code of the State of California. The consolidated election will be held and conducted in the manner prescribed in section 10418 of the Elections Code of the State of California. When the results of said special election are ascertained, the Registrar of Voters of the County of Alameda ("Registrar of Voters") is hereby authorized and directed to certify the same to the Board of Supervisors of the County of Alameda.

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	NO

A copy of the full text of County of Alameda Measure \_\_\_\_ is attached hereto and incorporated herein.

**SECTION III**

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The Clerk of the Board of Supervisors is ordered to file a copy of this ordinance with the County Registrar of Voters at least 88 days prior to the date of the election.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on this \_\_\_\_ day of \_\_\_\_\_ 2023, by the following called vote:

AYES:

NOES:

EXCUSED:



**Full text of County of Alameda Measure \_\_**

**MEASURE \_\_\_\_\_**

This Measure \_\_\_ will become effective only if submitted to the voters at the election held on March 5, 2024, and only after approval by a majority of the qualified voters voting in the election on the issue.

The Charter Amendment will take effect as provided for in sections 23713, 23714 and 23724 of the Government Code.

Section 62 of the Charter of the County of Alameda is amended to read, in its entirety, as follows:

Section 62.

California state law applicable to the recall of County officers shall govern the recall of County of Alameda elected officers.