

Introduced by Senator Wiener

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(Coauthors: Assembly Members Lee, McCarty, and Ting)

January 28, 2021

An act to amend Section 13.5 of the Elections Code, and to repeal Section 24004.3 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 271, as introduced, Wiener. County sheriffs: eligibility requirements.

The California Constitution requires the Legislature to provide for an elected county sheriff in each county. Existing statutory law specifies that a person is not eligible to become a candidate for the office of sheriff in a county unless the person has an advanced certificate issued by the Commission on Peace Officer Standards and Training or meets a combination of certain educational degree and full-time, salaried law enforcement experience requirements, as specified. Existing law deems a person holding the office of sheriff on January 1, 1989, to have met those qualifications.

This bill would repeal those eligibility provisions, and would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13.5 of the Elections Code is amended
2 to read:

1 13.5. (a) (1) Notwithstanding subdivision (a) of Section 13,
2 no person shall be considered a legally qualified candidate for any
3 of the offices set forth in subdivision (b) unless that person has
4 filed a declaration of candidacy, nomination papers, or statement
5 of write-in candidacy, accompanied by documentation, including,
6 but not necessarily limited to, certificates, declarations under
7 penalty of perjury, diplomas, or official correspondence, sufficient
8 to establish, in the determination of the official with whom the
9 declaration or statement is filed, that the person meets each
10 qualification established for service in that office by the provision
11 referenced in subdivision (b).

12 (2) The provision of “documentation,” for purposes of
13 compliance with the requirements of paragraph (1), may include
14 the submission of either an original, as defined in Section 255 of
15 the Evidence Code, or a duplicate, as defined in Section 260 of
16 the Evidence Code.

17 (b) This section shall be applicable to the following offices and
18 qualifications therefor:

19 (1) For the office of county auditor, the qualifications set forth
20 in Sections 26945 and 26946 of the Government Code.

21 (2) For the office of county district attorney, the qualifications
22 set forth in Sections 24001 and 24002 of the Government Code.

23 ~~(3) For the office of county sheriff, the qualifications set forth~~
24 ~~in Section 24004.3 of the Government Code.~~

25 ~~(4)~~

26 (3) For the office of county superintendent of schools, the
27 qualifications set forth in Sections 1205 to 1208, inclusive, of the
28 Education Code.

29 ~~(5)~~

30 (4) For the office of judge of the superior court, the
31 qualifications set forth in Section 15 of Article VI of the California
32 Constitution.

33 ~~(6)~~

34 (5) For the office of county treasurer, county tax collector, or
35 county treasurer-tax collector, the qualifications set forth in Section
36 27000.7 of the Government Code, provided that the board of
37 supervisors has adopted the provisions of that section pursuant to
38 Section 27000.6 of the Government Code.

39 SEC. 2. Section 24004.3 of the Government Code is repealed.

1 ~~24004.3.— (a) No person is eligible to become a candidate for~~
2 ~~the office of sheriff in any county unless, at the time of the final~~
3 ~~filing date for election, he or she meets one of the following~~
4 ~~criteria:~~

5 ~~(1) An active or inactive advanced certificate issued by the~~
6 ~~Commission on Peace Officer Standards and Training.~~

7 ~~(2) One year of full-time, salaried law enforcement experience~~
8 ~~within the provisions of Section 830.1 or 830.2 of the Penal Code~~
9 ~~at least a portion of which shall have been accomplished within~~
10 ~~five years prior to the date of filing, and possesses a master's degree~~
11 ~~from an accredited college or university.~~

12 ~~(3) Two years of full-time, salaried law enforcement experience~~
13 ~~within the provisions of Section 830.1 or 830.2 of the Penal Code~~
14 ~~at least a portion of which shall have been accomplished within~~
15 ~~five years prior to the date of filing, and possesses a bachelor's~~
16 ~~degree from an accredited college or university.~~

17 ~~(4) Three years of full-time, salaried law enforcement experience~~
18 ~~within the provisions of Section 830.1 or 830.2 of the Penal Code~~
19 ~~at least a portion of which shall have been accomplished within~~
20 ~~five years prior to the date of filing, and possesses an associate in~~
21 ~~arts or associate in science degree, or the equivalent, from an~~
22 ~~accredited college.~~

23 ~~(5) Four years of full-time, salaried law enforcement experience~~
24 ~~within the provisions of Section 830.1 or 830.2 of the Penal Code~~
25 ~~at least a portion of which shall have been accomplished within~~
26 ~~five years prior to the date of filing, and possesses a high school~~
27 ~~diploma or the equivalent.~~

28 ~~(b) All persons holding the office of sheriff on January 1, 1989~~
29 ~~shall be deemed to have met all qualifications required for~~
30 ~~candidates seeking election or appointment to the office of sheriff.~~

Resolution in Support of Senate Bill 271 (Wiener)

Whereas, Sheriffs in California are constitutionally elected officials that exercise great authority in their respective County jurisdictions. All 58 counties in California have a Sheriff's department, and 41 counties provide for the Sheriff to assume the role of Coroner. The Sheriff has three primary duties: keep the peace, attend to the courts, and operate the county jail. Generally, the Sheriff has six functional operations: patrol, detention, civil, court services, records, coroner, administrative, and investigative; and

Whereas, prior to 1988, the California constitution required no special qualifications to run for the office of Sheriff. After former prisoner rights' attorney Michael Hennessey was elected to Sheriff of San Francisco county, the California State Sheriff's Association successfully lobbied for a bill that restricted candidates to those with current and former law enforcement experience, codified at Government Code Section 24004.3. As a result, the pool of candidates grew smaller and many Sheriffs are unopposed when seeking reelection. In 2014, only 19 of the 58 counties in California had a contested race for the office of Sheriff, and in 2021, forty-nine of the sitting Sheriffs are white males, which does not reflect the demographics of the diverse constituents most Sheriffs represent¹; and

Whereas, San Francisco Sheriff Michael Hennessey enacted many successful reform and anti-recidivism programs and was reelected seven times, becoming widely respected and the longest tenured Sheriff in California history; and

Whereas, protests against police brutality have called for elected officials to "reimagine public safety", by shifting some duties away from armed officers to unarmed civilians and social workers; and

Whereas, several counties including Los Angeles, Santa Clara, and San Diego have created civilian oversight boards due to reports of horrific conditions in their jails, and misconduct by their Sheriff's department. In Dibb v. County of San Diego (1994), the California Supreme Court upheld the authority to create such boards; and

Whereas, the restrictions limiting candidates to those with law enforcement experience has resulted in Sheriffs that are generally not well suited to reimagining public safety, as they lack de-escalation training, rehabilitative and restorative justice backgrounds, and mental health crisis intervention training as these are typically not provided by police and sheriff's training academies; and

Whereas, Sheriffs in counties with larger populations manage thousands of employees, most of which are unarmed civilian employees. Such employees outnumber armed sworn employees in each of the 58 California counties; and

¹ *****theappeal.org/politicalreport/california-overturn-sheriff-requirements/

Whereas, Sheriffs in California formally opposed the sanctuary protections provided by SB 54 (California Values Act) enacted into law in 2018, and many continue to cooperate with Immigrations and Customs Enforcement (ICE)²; and

Whereas, in 2017 Alameda County Sheriff Ahern invited The Oath Keepers to participate in his Urban Shield “war games” and allowed them to distribute propaganda. Members of The Oath Keepers have since been investigated and/or arrested by the FBI for participating in the January 6, 2021 “Trump Insurrection” challenging the certification of President Joe Biden’s election results³; and

Whereas, in July 2017, a woman gave birth alone while confined to solitary confinement at Santa Rita Jail, despite screaming for hours for medical attention. Alameda County and Sheriff Ahern are now the subject of a federal civil rights lawsuit⁴; and

Whereas, after paying \$149 million in just five years due to civil rights violations, sexual assault, excessive force, and killings, and due to resisting oversight and reform efforts, in 2020 the Board of Supervisors for the County of Los Angeles voted to explore removing Sheriff Villanueva and making the office of Sheriff an appointed position⁵; and

Whereas, Sheriffs have resisted calls to release or socially distance inmates and employees suffering from Covid-19 outbreaks in their respective jails, even as their own staff began to suffer the negative health consequences of the coronavirus, including death⁶. San Diego Sheriff Gore’s response to the crisis has been to prioritize privatization of the county jail’s health care services, which could eliminate 350 county employee positions⁷; and

Whereas, an independent internal San Diego County review found that a woman was left alone to die, after striking her head in jail. According to records cited by the San Diego Union-Tribune, more than 150 people have died in custody in San Diego County jails since Sheriff Gore took office. The Union-Tribune also reported that San Diego County has the highest jail mortality rate of the state’s six most populous counties⁸; and

2 ***** [.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego](https://www.latimes.com/california/story/2020-10-08/ice-sanctuary-policies-arrest-san-diego)

3 ***** [.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html](https://www.washingtonpost.com/national-security/oath-keeper-three-percenter-arrests/2021/01/17/27e726f2-5847-11eb-a08b-f1381ef3d207_story.html)

4 ***** [.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/](https://www.eastbaytimes.com/2018/08/21/woman-who-gave-birth-alone-in-alameda-county-jail-screaming-for-hours-sues-county/)

5 ***** [.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options](https://www.latimes.com/california/story/2020-11-10/supervisors-seek-sheriff-removal-options)

6 ***** [.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/](https://www.kpbs.org/news/2020/dec/22/covid-19-cases-surge-san-diego-jails-detention/)

7 ***** [.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates](https://www.sandiegouniontribune.com/news/watchdog/story/2020-11-16/new-covid-19-outbreak-forces-transfer-of-dozens-of-county-jail-inmates)

8 ***** [.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrtj91GSv1ih1Yd5zN5tGhrqfIWKPdUIMUhyE0r8KUASq9vSmSEQ](https://www.sandiegouniontribune.com/news/watchdog/story/2021-02-07/woman-left-alone-to-die-after-striking-her-head-while-collapsing-in-jail-independent-review-finds?fbclid=IwAR2XsvDnrtj91GSv1ih1Yd5zN5tGhrqfIWKPdUIMUhyE0r8KUASq9vSmSEQ)

Whereas, in January 2021, California Attorney General Becerra launched an investigation into the Los Angeles County Sheriff's department for "pattern and practice" civil rights violations⁹;

Whereas, Senator Wiener, along with colleagues Senator Skinner, Assembly Member McCarty, Assembly Member Kalra, Assembly Member Lee, Assembly Member Wicks, and Assembly Member Ting, has introduced Senate Bill 271 ("The Sheriff Diversity and Democracy Act") to return California to its original constitutional language for candidates seeking the office of County Sheriff, which if enacted would no longer require law enforcement experience to seek the office of Sheriff; now therefore be it

Resolved, the City Council of Berkeley expresses its support for Senate Bill 271 (Wiener), and the California legislature to pass and Governor Gavin Newsom to sign into law Senate Bill 271; and

Further Resolved, that copies of this Resolution will be sent to the Office of California Senator Wiener, along with a copy of the letter referenced below; and

Further Resolved, the Mayor of the City Council of Berkeley shall submit a letter of support for Senate Bill 271 to the Office of Senator Wiener, using the attached template as a reference.

⁹ *****[ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/](https://www.ktla.com/news/local-news/california-ag-launches-civil-rights-investigation-into-l-a-county-sheriffs-department/)