

SENATE THIRD READING  
SB 29 (Umberg)  
As Amended January 15, 2021  
2/3 vote. Urgency

#### **SUMMARY:**

Requires county elections officials to mail a ballot to every active registered voter, and to allow voters to use a vote by mail (VBM) ballot tracking system, for all elections proclaimed or conducted prior to January 1, 2022.

#### **Major Provisions**

- 1) Requires county elections officials to mail a ballot to every active registered voter for any election proclaimed or conducted prior to January 1, 2022, as specified, and provides that the distribution of VBM ballots to registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.
- 2) Requires county elections officials to use the VBM ballot tracking system developed by the Secretary of State (SOS), or a system that meets or exceeds the level of service provided by the SOS's system, for any election proclaimed or conducted prior to January 1, 2022.
- 3) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.

#### **COMMENTS:**

According to information from the California Department of Public Health, at the time California conducted its March 3, 2020 statewide primary election, there were only 43 confirmed cases of COVID-19 in the state. As a result, voting in the primary was largely unaffected by the COVID-19 pandemic, though some county elections officials reported that they had a larger number of poll workers than usual who failed to show up on election day.

Following the primary election, the SOS's office established a working group to discuss the conduct of elections during the COVID-19 pandemic, and to develop recommendations for how to conduct the November 2020 presidential general election in light of the challenges posed by COVID-19. The working group included SOS, legislative, and gubernatorial staff, local elections officials, and representatives from numerous good government and voting rights groups, among others.

Among the issues that were discussed during the working group meetings were concerns that the COVID-19 pandemic would make voters less willing to vote in person, reduce the number of people willing to serve as poll workers, reduce the number of locations willing to serve as in-person voting locations, and require the use of different types of locations for in-person voting given the potential need to be able to accommodate physical distancing during in-person voting.

Those discussions helped inform consideration of two bills that subsequently were enacted to govern the conduct of the November 2020 presidential general election. AB 860 (Berman), Chapter 4, Statutes of 2020, required county elections officials to mail ballots to all active registered voters for the November 3, 2020 statewide general election, and required county elections officials to use the VBM ballot tracking system developed by the SOS, or a system that meets or exceeds the level of service provided by the SOS's system, for that election, among

other provisions. SB 423 (Umberg), Chapter 31, Statutes of 2020, authorized changes to in-person voting requirements for the November 3, 2020, statewide general election, and required the state and counties to conduct voter education and outreach campaigns to notify voters about voting in that election, among other provisions. Both AB 860 and SB 423 were applicable only to the November 2020 presidential general election. No other legislation has been enacted to make further accommodations for the conduct of elections in California while the COVID-19 pandemic remains ongoing. The provisions of this bill are based off two of the provisions of AB 860.

According to official election results compiled by the SOS, 17,785,151 Californians voted in the November 3, 2020 statewide general election—15,423,301 (86.7%) using a VBM ballot, and 2,361,850 (13.3%) voting in-person at a precinct or vote center. That represents a turnout of 80.67% of California's registered voters, and 70.88% of the estimated number of eligible California voters. As a percentage of eligible voters, California's turnout in the November 2020 election was the highest turnout in a statewide election since the presidential general election in November 1952.

Three years ago, the Legislature approved and Governor Brown signed AB 2218 (Berman), Chapter 432, Statutes of 2018, which required the SOS to establish a system that a county elections official may use to allow a VBM voter to track and receive information about the voter's VBM ballot as it moves through the mail system and as the VBM ballot is processed by the county elections official. The SOS officially launched that system in February 2020. Twenty-five counties made that tool available to their voters for the March 3, 2020 statewide primary election and in accordance with AB 860 of 2020, as described above, the system was available for voters in all 58 California counties for the November 2020 presidential general election. According to information from the SOS, more than five million Californians have signed-up to track their VBM ballots using the SOS system.

**According to the Author:**

"California conducted a safe, secure, and accurate November 2020 Presidential Election due, in large part, to SB 423 (2020) authored by Senator Umberg and AB 860 by Assemblymember Berman. The historic turnout for the 2020 election was 80.7% (as of early December) despite the pandemic. AB 860 and this year's successor, SB 29 will ensure that all eligible voters living in jurisdictions conducting elections in 2021 will be mailed a vote-by-mail ballot in order to give the option for individuals to vote at home if they wish."

**Arguments in Support:**

In support of this bill, AFSCME, AFL-CIO writes, "SB 29 protects the authority of voters to make personal health risk assessments and reaffirms the importance of participation in our elections. This bill comes as COVID-19 continues to spread, vaccination rates remain low, highly transmissible strains of the virus emerge, and public safety continues to be compromised by large gatherings. Voters and elections staff should feel safe and secure while participating in elections. Forcing voters to choose between their safety and civic responsibility would be tantamount to voter suppression. SB 29 will equip voters with the materials to remain politically engaged and physically distanced during all 2021 elections."

**Arguments in Opposition:**

In opposition to a prior version of this bill, Election Integrity Project California, Inc. (EIPCa) wrote, "As EIPCa argued in the hearings regarding AB 860, Californians already have the

unrestricted right at any time to simply pick up the phone and request a VBM for any or all elections. Those who still feel too vulnerable to venture out to vote in person do not need the State to make their voting decisions for them. No one's health will be jeopardized by allowing voters to make their own choices. And doing so will protect legitimate voters from the cancellation of their legal ballots by those who are facilitated to double vote, vote from the grave, vote from another state, etc. We urge you not to double down on the ill-advised AB 860 and its catastrophic impact on both election integrity and on voter confidence."

#### **FISCAL COMMENTS:**

According to the Assembly Appropriations Committee:

- 1) By requiring a county to mail a ballot to each registered voter in the county and to use a ballot tracking system, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service, local agencies could claim reimbursement of those costs. Mailing costs for two elections currently scheduled in 2021 will total about \$300,000 (General Fund), however, the state is not required to reimburse costs in Los Angeles County (see comments).
- 2) The SOS indicates its implementation of the bill would not result in new state costs. The SOS ballot tracking system has already been deployed and is maintained using federal funds.
- 3) Potential reimbursable local costs, of an unknown amount, associated with the tracking system requirement.
- 4) Potential significant costs, of an unknown amount, associated with any special elections or statewide elections that have not yet been scheduled or qualified (see comments).

More than 87% of California voters received a VBM ballot for the 2020 November General Election, either because those voters were permanent VBM voters or resided in a Voter's Choice Act county.

There are currently two elections scheduled in 2021; one for Senate District (SD) 30 in Los Angeles County, and one for Assembly District (AD) 79 in San Diego County. The state reimburses counties for the costs associated with mailing ballots to permanent VBM voters only. For Voter's Choice Act counties, including Los Angeles County, the state will not reimburse costs associated with ballots mailed to voters who are not permanent VBM voters. The SOS estimates these non-reimbursable costs for the SD 30 election to be about \$197,000. San Diego County is not a Voter's Choice Act county; the SOS estimates costs for the AD 79 election to be \$103,000. Potential local costs associated with the tracking system "Where's my Ballot?" are unknown at this time.

The Commission on State Mandates ultimately determines if the state must reimburse these local costs, which would be paid from the General Fund.

To the extent presidential and gubernatorial appointments lead to additional special elections, costs resulting from this bill could be higher. Likewise, if an already scheduled election leads, in turn, to a subsequent election (for example, if an Assemblymember wins the election in SD 30), costs resulting from this bill would be higher.

Lastly, a statewide election in 2021 such as the gubernatorial recall, if it qualifies, would result in potentially reimbursable local costs of about \$7.6 million, according to the SOS.

**VOTES:**

**SENATE FLOOR: 29-7-3**

**YES:** Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Laird, Leyva, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

**NO:** Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

**ABS, ABST OR NV:** Bates, Borgeas, Limón

**ASM ELECTIONS: 6-1-0**

**YES:** Berman, Bennett, Low, Mayes, Mullin, Blanca Rubio

**NO:** Seyarto

**UPDATED:**

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