

CONCURRENCE IN SENATE AMENDMENTS

AB 1664 (Jackson and Berman)

As Amended August 13, 2026

2/3 vote. Urgency

SUMMARY

Requires local agencies and elections officials to notify the Secretary of State (SOS) and Attorney General (AG) of any warrant, subpoena, or active law enforcement investigation pertaining to the search, seizure, or retention of election records or certified voting technology.

Senate Amendments

- 1) Delete a requirement that the notice to the SOS or AG must be written, and require that the notification be made immediately, but no later than one calendar day, after the agency or official becomes aware of the warrant, subpoena, or investigation.
- 2) Permit the SOS to intervene in court proceedings connected with the warrant, subpoena, or investigation. The Assembly-approved version of the bill permitted the AG to intervene in such proceedings, but did not expressly allow the SOS to do so.
- 3) Make minor, technical, and clarifying changes.

COMMENTS

In February, the Riverside County Sheriff's Department obtained a search warrant to search the Registrar of Voters' office and seize all ballots from the November 2025 statewide special election.

The supporting affidavit relied on a local watchdog group's audit claiming a discrepancy of nearly 46,000 ballots between the number of ballots cast and the official total reported by the Registrar of Voters. The affidavit did not indicate that the Sheriff's Department contacted the Registrar or independently verified the claim. It also fails to identify any specific individual suspected of wrongdoing or any particular crime believed to have been committed.

Just three days after receiving the allegation, the Sheriff's Department sought the warrant to seize ballots "to prove or disprove any criminal conduct," despite knowing the Registrar would present clarifying information to the Board of Supervisors the next day. At that presentation, the Registrar disputed the claim, stating the actual discrepancy was 103 ballots.

The Department later obtained two additional warrants—one for more election materials and another to appoint a special master to oversee ballot counting. By then, deputies had already opened ballot boxes and begun counting, despite state laws requiring such materials to remain sealed and in the custody of election officials.

In March, Attorney General Rob Bonta petitioned the Appellate Court to halt the investigation, citing "grave concerns" about the warrants' legal sufficiency, and directed the Sheriff to pause its investigation. According to the petition, the Sheriff indicated he would comply. That, however, did not occur and the Sheriff continued to take actions related to the investigation, including obtaining the third warrant without notifying the AG.

The Appellate Court denied relief on procedural grounds, after which the AG petitioned the California Supreme Court. Last month, the Court granted review, ordered a pause in the investigation, and directed preservation of all seized materials. Proceedings are ongoing on an expedited basis.

Regardless of the outcome, the seizure of ballots without identifying a specific crime or suspect raises serious concerns about election security and chain of custody, as the ballots are no longer in the Registrar's possession but remain with the Sheriff's Department.

Ensuring that the SOS (as the state's chief elections officer) and the AG (as the state's chief law officer) are promptly notified of any warrant, subpoena, or active law enforcement investigation involving election records or voting systems would help provide appropriate oversight. Such coordination may reduce the risk of compromising election integrity and prevent disruptions to the chain of custody of election materials.

The Senate amendments provide further detail about the type of materials and equipment covered by the bill, expressly permit the SOS to intervene in court proceedings covered by the bill, and make various other minor, technical, and clarifying changes. This bill, as amended in the Senate, is consistent with prior Assembly actions.

Please see the policy committee analysis for a full discussion of this bill

According to the Author

"California's elections are foundational to our democracy and cannot be left vulnerable to unchecked interference. When law enforcement agencies search, seize, or retain election records and voting systems without proper oversight, they risk disrupting the very machinery of democratic participation and eroding the public's trust in election outcomes. California has long been a leader in establishing robust, transparent election administration, and it is our responsibility as legislators to ensure that the Secretary of State and the Attorney General, the state's chief elections, and law officers, are empowered to respond swiftly when that system comes under scrutiny. By requiring local agencies and elections officials to notify state authorities within one business day of any warrant, subpoena, or active investigation touching election materials, this bill ensures that the state can intervene, protect critical records, and uphold the rule of law. Free and fair elections are not simply a procedural matter, they are the mechanism through which every Californian's voice is heard, and we have an obligation to defend that process with every tool available to us."

Arguments in Support

The sponsor of this bill, Attorney General Rob Bonta, writes in support, "California has a compelling interest in safeguarding the integrity, security, and continuity of election administration. Recent incidents locally and nationwide have demonstrated that improper seizure, retention, or handling of election records and voting equipment can compromise chain-of-custody protections and undermine public confidence in democratic institutions. AB 1664 establishes a process requiring local agencies and election officials to notify the Attorney General and Secretary of State within one business day after becoming aware of a warrant, subpoena, or active law enforcement investigation pertaining to election records or voting systems. This notice requirement helps ensure that state authorities are aware of investigative actions that may affect election administration or implicate statewide election security interests. Additionally, AB 1664 supplements existing litigation tools by authorizing the Attorney General to intervene in or initiate court proceedings, where appropriate, to challenge warrants or

subpoenas on valid legal grounds or seek other relief. This provision helps ensure that disputes involving sensitive election infrastructure receive appropriate statewide oversight and legal review."

Arguments in Opposition

In opposition to this bill, the California State Sheriffs' Association (CSSA) writes, "The California Constitution gives the AG supervisory authority over sheriffs and district attorneys, but not supervisory authority over the judiciary. If, pursuant to this bill, the AG were effectively asking a court to nullify a magistrate's discretionary probable-cause determination absent a direct state interest, the AG would be expanding supervisory authority into judicial review power the Constitution does not grant. There is case law to support this analysis. For example, as it relates to the issuance of a search warrant as a judicial act of the magistrate, a prosecutor cannot be vested with authority to foreclose the exercise of a judicial power and doing so violates the doctrine of separation of powers set forth in Article III, Section 1, of the California Constitution (*Esteybar v. Municipal Court for Long Beach Judicial Dist.*, 5 Cal. 3d 119, 122). Similarly, the Attorney General cannot dictate to courts a legal result without violating separation of powers principles (*People ex rel. Internat. Assn. of Firefighters, etc. v. City of Palo Alto*, 102 Cal. App. 5th 602, 624). Because AB 1664 introduces the potential for political interference into a process already overseen by judges and peace officers and to the extent the bill would inappropriately (and likely constitutionally impermissibly) invite the AG to intervene in a process in a manner that runs afoul of the separation of powers, CSSA must oppose AB 1664."

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) By requiring certain local entities to notify the SOS and AG as specified, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but probably minor (General Fund).
- 2) SOS and the AG would incur minor and absorbable administrative costs.
- 3) To the extent that the AG intervenes in elections-related legal investigations that also receive precedence when filed in court, this bill could result in increased court workload, resulting in potentially significant cost pressures to the courts; the magnitude is unknown (Trial Court Trust Fund (TCTF)). It generally costs about \$10,500 per day to operate a courtroom. Courts are not funded on the basis of workload, and increased pressure on TCTF may create a need for increased funding for courts from the General Fund. The enacted 2026-27 budget includes \$70 million in ongoing support from the General Fund to continue to backfill TCTF for revenue declines.

VOTES:

ASM ELECTIONS: 6-2-0

YES: Pellerin, Bennett, Berman, Elhawary, Solache, Stefani

NO: Gallagher, Johnson

ASM APPROPRIATIONS: 10-4-1

YES: Wicks, Aguiar-Curry, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

NO: Hoover, Dixon, Ta, Tangipa

ABS, ABST OR NV: Arambula

ASSEMBLY FLOOR: 56-15-9

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NO: Castillo, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Johnson, Macedo, Patterson, Sanchez, Ta, Tangipa

ABS, ABST OR NV: Alanis, Arambula, Chen, Garcia, Hoover, Lackey, Ramos, Celeste Rodriguez, Wallis

UPDATED

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