

CONCURRENCE IN SENATE AMENDMENTS

AB 5 (Berman)

As Amended July 2, 2025

Majority vote

**SUMMARY**

Requires county elections officials to report vote totals for all ballots, except specified types of ballots that require special processing, by the 13th day after the election.

**Senate Amendments**

- 1) Extend, from the 10th day after the election to the 13th day after the election, the date by which county elections officials must report vote totals for all ballots other than specified types of ballots that require special processing.
- 2) Add ballots received by an elections official after the fourth day following the election to the types of ballots for which the elections official is not required to report vote totals by the 13th day after the election.
- 3) Delete provisions allowing an elections official to request an extension of this bill's deadline and permitting the Secretary of State (SOS) to grant such an extension, and instead require an elections official who will not meet the deadline to file a notice of extension with the SOS. Require the elections official and the SOS to post such a notice on their respective websites.
- 4) Make a clarifying change.

**COMMENTS**

The speed at which California finalizes election results and certifies elections garnered increased attention following the 2024 statewide general election. That attention was due, at least in part, to the fact that California had the two closest Congressional races in the nation, which meant that the winners in those two races were not apparent until weeks after the election.

The desire to know the outcomes of elections sooner is understandable, and is part of the reason why media organizations declare the winners of elections before ballot counting is complete. The government officials who are responsible for running elections, however, do not have the ability to declare a winner before all ballots are counted. Instead, they are tasked with ensuring that all legally-cast ballots are tabulated accurately and in accordance with state laws, using a process that is open to public scrutiny, and that contains many safeguards to protect against the release of incorrect results due to errors, fraud, or other factors.

The judgement of how quickly state law should require election results to be finalized is a subjective one. To the extent that the Legislature believes that the speed at which election results are finalized by California elections officials is a problem in need of a policy solution, there are a variety of potential approaches to speeding the rate at which election results are finalized. Each of those approaches, however, would involve policy and/or budgetary tradeoffs. For example, significant additional funding for staff, ballot processing equipment, and processing facilities could help expedite election results, but would mean that fewer resources would be available for other policy priorities. Modifying the state's robust procedures for verifying ballots prior to counting could speed the processing of ballots, but could harm the integrity of elections and the

accuracy of results. Limiting the circumstances under which voters can vote by mail likely would speed up election results, but also undoubtedly would reduce access for many voters, and could negatively impact voter participation.

This bill seeks to speed up vote counting, to an extent, by requiring county elections officials to release the vote counts for ballots by the 13th day after the election, except for certain specified types of ballots that require additional processing. Ballots that would not need to be counted by the 13th day include vote by mail (VBM) ballots forwarded from other counties, VBM ballots subject to signature curing, provisional ballots, CVR ballots, ballots received by the elections official after the fourth day following the election, and ballots that need duplicating.

In recent statewide general elections, the overwhelming majority of ballots in California have been counted by the 10th day after the election. At the November 2024 election, for example, 94.72% of ballots cast statewide were counted with results reported by the 10th day after the election (the Friday of the week after the election). There can be wide variation from county-to-county, however, on the percentage of ballots that are counted by that point. For instance, in 2024, one county had reported results for less than 32% of its ballots by the 10th day after the election, and three other counties had reported results for less than 75% of their ballots. On the other hand, 14 counties had counted more than 98% of their ballots by that point.

Notwithstanding the fact that nearly 95% of ballots from the November 2024 election were counted by the 10th day after the election, the remaining 5% of ballots to be counted likely were disproportionately the types of ballots that require additional processing by elections officials before they can be counted. In many cases, the additional workload associated with processing and counting those ballots are the result of provisions of state law that were enacted in an effort to err on the side of counting as many ballots and enfranchising as many voters as possible. In some cases, the types of ballots cast and counted under these provisions of California law would not be counted if they were cast in other states.

The Senate amendments extend the deadline by which county elections officials must report vote totals from ballots other than those that require special processing, add an additional type of ballot that is not subject to that deadline, and make modifications to procedures to be followed when a county is unable to meet the deadline. This bill, as amended in the Senate, is generally consistent with prior Assembly actions.

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

### **According to the Author**

"California has one of the most accessible, secure, and transparent voting systems in the country. We also have some of the most competitive congressional and legislative races, due to our independent redistricting process and lack of political gerrymandering. These are things to be proud of, but the reality is that they also lead to very slow vote counts that can confuse and frustrate the public, drawing negative attention to our voting process, and creating an opportunity for bad actors to sow doubt about election results they don't like in an effort to undermine confidence in our democracy. AB 5 seeks to maintain voting accessibility and security while also speeding up vote counting by establishing clear and achievable metrics for when the vast majority of ballots must be counted and races decided. This increases transparency in the vote count process to give voters and the public even more confidence, while maintaining our nation-leading voting rights."

### **Arguments in Support**

In support of this bill, the Silicon Valley Community Foundation writes, "In an era where misinformation is widespread, and democratic institutions are under pressure, AB 5 represents a thoughtful and much-needed step forward. By establishing a date by which the vast majority of ballots must be counted, the bill provides clarity to the voting public and sets an example for the nation. As an organization that supports civic engagement, we have seen firsthand the uncertainty that spread when there is a long delay in announcing the outcome of an election. AB 5 is not only a policy solution; it is a statement that California is committed to empowering residents with the knowledge to succeed in a complex world."

### **Arguments in Opposition**

In opposition to this bill, Election Integrity Project California, Inc. writes, "AB 5 mandates no change in the chaotic and needlessly complex system that causes the certification delay. It only mandates rushing through the processing of certain ballots. For what purpose? AB 5 requires mountains of ballots received on or just before Election Day to be rushed through the complex and (if done properly) time-consuming processing procedures in order to release the results of their tabulation within 13 days. Nothing is gained by doing so, and integrity is lost."

## **FISCAL COMMENTS**

According to the Senate Appropriations Committee:

- 1) The SOS anticipates no fiscal impacts associated with implementing the provisions of this bill.
- 2) By requiring local elections officials to finish counting ballots by the 13<sup>th</sup> day following an election (with specified exceptions), 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 potentially in excess of \$50,000 annually (General Fund).

## **VOTES:**

### **ASM ELECTIONS: 7-0-0**

**YES:** Pellerin, Macedo, Bennett, Berman, Solache, Stefani, Tangipa

### **ASM APPROPRIATIONS: 14-0-1**

**YES:** Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache, Ta, Tangipa

**ABS, ABST OR NV:** Sanchez

**ASSEMBLY FLOOR: 71-0-8**

**YES:** Addis, Aguiar-Curry, Ahrens, Alanis, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Soria, Stefani, Ta, Valencia, Wallis, Wicks, Wilson, Zbur, Rivas

**ABS, ABST OR NV:** Alvarez, Bryan, Chen, Nguyen, Sharp-Collins, Solache, Tangipa, Ward

**UPDATED**

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