SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular

Bill No:	SB 73	**Hearing Date:**	1/13/26
Author:	Cervantes		
Version:	1/5/26		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: Elections: inspection of voting systems

DIGEST

This bill prohibits local election officials from permitting a federal government agency or its employees from inspecting a voting system machine or device, unless authorized by a federal court order.

ANALYSIS

Existing federal law:

1) States, pursuant to the Article I, Section 4 of the U.S. Constitution, "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

2) Provides the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Help America Vote Act of 2002 (HAVA), and the Civil Rights Act of 1960.

3) Establishes, in general and pursuant to HAVA, minimum standards and requirements for voting equipment used in federal elections, including, but not limited to, accessibility, voter verification, paper records, error rate, and audit capacity.

Existing state law:

1) Defines a voting system as a mechanical, electromechanical, or electronic system and its software, or any combination of these used for casting a ballot, tabulating votes, or both. A voting system does not include a remote accessible vote by mail system.

2) Requires the Secretary of State (SOS) to adopt and publish voting system standards and regulations governing the use of voting systems that meet the minimum requirements of HAVA and incorporates best practices in election technology.

3) Authorizes the SOS to require additional testing of voting systems to ensure it meets the requirements in law. A voting system, in whole or in part, cannot be bought or

used unless the SOS has certified it or conditionally approved it prior to any election at which it is to be used.

4) Requires a vendor, jurisdiction, or applicant, if the SOS has certified or conditionally approved a voting system or a part of a voting system, to notify the SOS and all local election officials who use the system in writing of any defect, fault, or failure of the hardware, software, or firmware of the voting system or a part of the voting system.

5) Requires the elections official of any county or city using a voting system to inspect the machines or devices at least once every two years to determine its accuracy. This inspection must follow the regulations adopted and promulgated by the SOS. The elections official must also certify the results of the inspection to the SOS.

This bill:

1) Prohibits a local elections official from permitting a federal government agency or its employees from inspecting a voting system machine or device, unless authorized by a federal court order.

2) Defines "federal government agency" to mean, but is not limited to, the U.S. Department of Justice, the Department of Homeland Security, and the Department of Defense.

3) Includes a severability clause and an urgency clause.

BACKGROUND

Help America Vote Act. In 2002, Congress passed and President Bush signed HAVA into law to address, among other provisions, issues with voting systems arising from the 2000 presidential election. HAVA mandated the replacement of all punch card and lever voting machines in the country, required every polling place to deploy at least one accessible voting machine to allow voters with disabilities to mark, cast, and verify their ballots privately and independently, and required all voting systems to meet a set of minimum standards to be used in federal elections.

HAVA also established the U.S. Election Assistance Commission (EAC) to serve as an independent and bipartisan commission responsible for developing and adopting guidelines to meet HAVA requirements and serving as a national clearinghouse of information on election administration. The EAC also accredits testing laboratories, certifies voting systems, and audits the use of HAVA funds. Using the EAC's testing and certification program is not mandatory, but many states require their use through statute or rule. Since states have different requirements for what voting systems need to do, the EAC's program is not necessarily a substitute for state-based requirements and testing.

Other States and Voting System Testing. According to the National Conference of State Legislatures, 38 states (Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South

Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming) and the District of Columbia have statutes or rules requiring some aspect of the federal testing and certification program. Some of these require full EAC certification, while others require testing to federal standards or testing by a federally accredited laboratory.

Some states, including California, do not use the federal program but have robust state-based standards, testing, and certification programs. In California, the Office of Voting Systems Technology Assessment (OVSTA) within the SOS is charged with the examination, testing, and certification of voting systems for use in California elections. OVSTA also oversees the approval of ballot printers and authorizes as well as monitors the manufacture and distribution of ballots for elections.

Voting Technology in California. The Legislature has approved various bills to ensure California has rigorous and stringent voting systems, voting equipment standards, and approval procedures. In 2014, California established its own standards for electronic components of voting systems which were derived from the EAC's guidelines. California's standards provide a set of specifications and requirements for the testing of voting systems to determine if it provides all the basic functionality, accessibility, and security capabilities required of voting systems.

Executive Order. On March 25, 2025, President Trump issued an Executive Order (EO), "Preserving and Protecting the Integrity of American Elections," containing a number of directives on policies that the U.S. Constitution assigns to states. The EO directs federal agencies to conduct specific activities related to election integrity, including (1) updating the federal voter registration form to include a requirement for "documentary proof of U.S. citizenship," (2) withholding funding from states that do not comply with federal law, including the EO's documentary proof of U.S. citizenship requirements, (3) prohibiting the use of certain voting systems, and (4) rescinding all previous certifications of certain systems.

Other major directives contained in the EO include requiring the Department of Homeland Security to review each state's publicly available voter lists and available records, require all ballots to be received on Election Day, and mandate all electors be selected on Election Day. Several lawsuits have been filed challenging aspects of the EO. The lawsuits ask courts to block many of its provisions, arguing it unconstitutionally preempts state authority and amounts to executive overreach. In at least two cases, including one case brought by the State of California with 18 other states, courts issued preliminary injunctions blocking implementation of key provisions of the EO.

Senate Bill 851. SB 851 (Cervantes), Chapter 238, Statutes of 2025, made various changes to protect California's elections from federal interference. SB 851 repealed requirements that standards adopted by the SOS for testing of voting equipment must meet or exceed voluntary federal standards set by the EAC. Instead, SB 851 requires the state standards to meet the minimum requirements of HAVA and to incorporate best practices in election technology. The bill also repealed the requirement for the SOS to notify the EAC or its successor agency of the problem after receiving written notification from a vendor, jurisdiction, or applicant, of a defect, fault, or failure of a voting system, part of a voting system, or a remote accessible vote by mail system.

Federal Monitors in California's Elections. For the November 4, 2025, statewide special election, the U.S. Department of Justice sent election monitors to five California counties. The five counties were Fresno, Kern, Los Angeles, Orange, and Riverside. The goal of the election observers was to "ensure transparency, ballot security, and compliance with federal law." Following the election, U.S. Assistant Attorney General for the Civil Rights Division Harmeet K. Dhillon stated, "in the counties we monitored, there were no major headlines out of that work."

It should be noted for the November 5, 2024, presidential general election, the U.S. Department of Justice planned to monitor 86 jurisdictions nationwide, including San Joaquin County. For the November 8, 2022, gubernatorial general election, the U.S. Department of Justice planned to monitor 64 jurisdictions nationwide, including Los Angeles County and Sonoma County.

COMMENTS

Author's Statement. President Donald Trump is waging war against elections in California. This includes in August 2025, when he made false statements declaring that voting machines used in states like California are inaccurate. In response, last year, the Legislature approved SB 851 to provide our state's elections systems with more protections against federal interference. Among other provisions, SB 851 prevented our voting system standards from attack by the federal government, ensuring that voting machines in California continue to meet the highest industry standards, not the warped demands of the President. However, during the November 4, 2025, statewide special election, the U.S. Department of Justice deployed election monitors to five California counties with large populations of Latino voters, including my home county of Riverside. That is why I intend to follow up and build on the protections against federal interference in our elections that were established in SB 851 with SB 73. This bill will prohibit county registrars from allowing federal government agencies to inspect their county's voting machines unless required to do so by a federal court order.

RELATED/PRIOR LEGISLATION

SB 851 (Cervantes), Chapter 238, Statutes of 2025, among other provisions, repealed provisions requiring the SOS to adopt and publish voting system standards that meet or exceed federal voluntary voting system guidelines prescribed by the EAC, and instead required the SOS to adopt and publish voting standards that meet the minimum requirements of HAVA and incorporate best practices in election technology.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

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