

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 884 (Umberg)
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Hearing Date: April 21, 2026
Fiscal: Yes
Urgency: Yes
AWM

SUBJECT

Elections in 2026, 2027, and 2028

DIGEST

This bill makes changes to laws relating to the vote by mail (VBM) process and restricts activities allowed within 200 feet of a polling location for elections from November 3, 2026, through 2029.

EXECUTIVE SUMMARY

Current law sets forth how a county elections official must conduct an election, including requirements for how many VBM ballot drop-off locations a county must provide, and when a VBM ballot received after election day may be counted. Current law also prohibits electioneering activity, as defined, within 100 feet of a polling place, election official's office, or curbside voting area. These measures are in place to ensure the integrity of California's elections and to protect the right to vote.

According to the author, California's ability to conduct its elections is under threat. The author and supporters are concerned that the Trump Administration will take steps to interfere with California's elections, including the 2026 midterm election and the 2028 presidential election, through policies to hamper voting by mail and through the possible deployment of law enforcement or Immigration and Customs Enforcement (ICE) to the polls. This bill, therefore, makes a number of changes to protect Californians' right to vote, including modifying VBM requirements and extending the anti-electioneering buffer zone to 200 feet.

This bill is sponsored by the author and is supported the California Federation of Labor Unions, AFL-CIO; the California School Employees Association, AFL-CIO; California State Treasurer Fiona Ma; Disability Rights California; and UnidosUS. The Committee has not received timely opposition to this bill. The Senate Elections and Constitutional

Amendments Committee is hearing this bill on the same date that this Committee is scheduled to hear this bill.

PROPOSED CHANGES TO THE LAW

Existing constitutional law:

- 1) Provides that the United States Constitution, the laws of the United States, and all treaties made under the authority of the United States are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)
- 2) Provides that Congress shall make no law abridging the freedom of speech, or the right of the people to peaceably assemble, and to petition the government for redress of grievances. (U.S. Const., 1st amend. (the First Amendment) & 14th amends.; *see Gitlow v. People of State of New York* (1925) 268 U.S. 652, 666 (First Amendment guarantees apply to the states through the due process clause of the Fourteenth Amendment).)
- 3) Provides that every person may freely speak, write, and publish their sentiments on all subjects, and that a law may not restrain or abridge liberty of speech. (Cal. Const., art. I, § 2 (Section 2).)

Existing law:

- 1) Establishes procedures and requirements for conducting elections by mail. (Elec. Code, div. 4, §§ 4000 et seq.)
- 2) Establishes the minimum number of VBM drop-off locations a county must provide in connection with an election, including at least one ballot drop-off location for every 15,000 voters. (Elec. Code, § 4005.)
- 3) Provides that a VBM ballot is timely cast if it is received by the voter's elections official via the United States Postal Service or a bona fide private mail delivery company no later than seven days after election day, and the ballot is either postmarked as mailed on or before election day or the date is stamped "received" by the elections official with a date on or before election day. (Elec. Code, § 4103.)
- 4) Defines "electioneering" as the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot, including, but not limited to, the following:
 - a) A display of a candidate's name, likeness, or logo.
 - b) A display of a ballot measure's number, title, subject, or logo.
 - c) Buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information.

- d) Dissemination of audible electioneering information.
 - e) Obstructing access to, loitering near, or disseminating visible or audible electioneering information at vote by mail ballot drop boxes. (Elec. Code, § 319.5(a).)
- 5) Provides that the activities described in 4) are prohibited within 100 feet of either of the following:
- a) The entrance to a building that contains a polling place, an elections official's office, or a satellite location.
 - b) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

This bill:

- 1) Provides that its provisions apply to any regular or special election, beginning with the November 3, 2026, statewide general election, held in 2026 through 2029, inclusive, or proclaimed in 2029.
- 2) Provides, notwithstanding any other law, that a county shall provide at least two VBM drop-off locations within the county or at least one VBM drop-off location for every 11,250 registered voters, whichever results in more VBM drop-off locations.
 - a) A county with fewer than 11,250 shall provide at least one VBM drop-off location.
 - b) All VBM drop-off locations shall be open at least during regular business hours beginning not less than 30 days before the day of the election and continuing through and including the day of the election
- 3) Encourages county election officials to use public buildings for polling places.
- 4) Provides, notwithstanding any other law, that a VBM ballot is timely cast if it is received by the voter's elections official via the United States Postal Service (USPS) or a bona fide private mail delivery company no later than 10 days after election day and if either of the following is satisfied:
 - a) The ballot is postmarked on or before election day or is time-stamped or date-stamped by a bona fide private mail delivery company on or before election day, or is otherwise indicated by the USPS or delivery company that the ballot was mailed on or before election day.
 - b) If the ballot has no postmark, a postmark with no date, or an illegible postmark, and no other information is available from the USPS or delivery company to indicate the date on which the ballot was mailed, the VBM identification envelope is date-stamped by the elections official upon receipt of the VBM ballot from the USPS or delivery company, and is signed and dated on or before election day.

- 5) Provides that a federal, state, or local law enforcement officer shall not arrest any person within 200 feet of a polling place on election day during the time in which the polling place is open, except for a crime related to disrupting the operation of the polling place, a violent or serious felony, as defined, or larceny; and provides that this provision does not provide legal amnesty for any crime within the buffer zone on election day.
- 6) Provides, notwithstanding any other law, that electioneering, as defined, is prohibited within 200 feet of either of the following:
 - a) The entrance to a building that contains a polling place, an election official's office, or a satellite location.
 - b) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.
- 7) Provides that a violation of 6) is punishable as a misdemeanor, as specified.
- 8) Provides, notwithstanding any other law, that on election day a county elections official may extend the time for closing the polls at any polling place if the county elections official determines, in their discretion, that voting at the polling place was disrupted as a result of a violation of 5) or 6).
- 9) Provides, if the time for closing the polls is extended pursuant to 8), that all votes cast during the time that the closing of the polls is extended shall be by provisional ballot, and any such ballots shall be separated and held apart from other provisional ballots cast by voters prior to the time the closing of the polls was extended.
- 10) Includes a severability clause.
- 11) Provides that the provisions of the bill will be repealed on January 1, 2030.
- 12) Includes an urgency clause.

COMMENTS

1. Author's comment

According to the author:

Our state is facing serious threats from the Trump administration, and we will not treat them as idle or theoretical. We know that the President Trump's allies seek to suppress voter turnout, especially among minority communities, by deploying ICE and military forces on election day. California has both the constitutional right and responsibility to run our own safe and secure elections, and we intend to do exactly that. These threats serve as a reminder that voting is a fundamental right that must be protected from intimidation and interference. In the interest of protecting this

fundamental right and ensuring voters feel safe participating in our democracy, no law enforcement presence, including state or local, should be permitted near voting areas unless necessary to address an imminent threat of bodily harm. Given the expected federal interference with California's elections, SB 884 would also increase options to avoid physical polls by extending vote center service hours, increase the number of ballot drop boxes, and allow drop boxes to open earlier. SB 884 will protect our voters, defend local control, and uphold our democracy regardless of whether the federal government chooses to respect those principles.

2. Background on the state's current VBM and electioneering laws

As explained by the Senate Elections and Constitutional Amendments Committee's analysis of this bill:

For the November 5, 2024, presidential general election, counties conducted elections using one of three models: vote centers, polling places, or all-mail. Each election model provides a different set of services for voters. For VBM ballots drop-off locations, counties using the vote center model needed to provide at least two VBM ballot drop-off locations or one VBM ballot drop-off location for every 15,000 registered voters, whichever resulted in more locations. For counties using the polling place or all-mail model, at least two VBM ballot drop-off locations or one VBM ballot drop-off location for every 30,000 registered voters, whichever resulted in more locations. All VBM ballot drop-off locations needed to be open 28 days prior to and through Election Day.

According to data from the Secretary of State's office, 29 counties used the vote center model, 25 counties used the polling place model, and four counties used the all-mail model. In total, there were 1,968 VBM ballot drop-off locations throughout California...

A number of VBM ballots are rejected at every election for various reasons. A rejected ballot is a ballot not counted because of a missing signature, a noncomparing signature, the ballot was missing from the envelope, multiple ballots were returned in one envelope, the ballot was not received on time, the voter already voted, or there is a missing or incorrect address on the envelope. A ballot can also be rejected if a voter did not provide their driver's license number, identification card number, or last four digits of their social security number when registering to vote and did not provide a form of identification when voting for the first time. For the 2024 presidential general election, 33,016 ballots of the 122,480 total number of rejected ballots were rejected because the VBM ballot was not received on time...

The earliest reference to a 100-foot electioneering prohibition dates back to at least 1891 where the Political Code stated, "No officer of election, nor any person, shall do

any electioneering on election day within one hundred feet of any polling place.” The Political Code (which later became the Elections Code) from 1891 also stated, “No person shall solicit a vote or speak to a voter on the subject of marking his ticket within one hundred feet of the polling place.” It should be noted that where the 100-foot prohibition is measured from has changed over time, but the actual number, 100 feet, has remained generally the same with some exceptions.

3. This bill modifies VBM laws and laws restricting activities around a polling place for elections through 2029

This bill is a response to the possibility that President Trump will interfere in nationwide elections with the goal of suppressing the vote.¹ In the 2025 election, the Trump administration publicized their intent to send Department of Justice observers to polling places in the state.² The author is concerned that, with control of Congress on the line, the Trump administration might take even more extreme measures, including sending ICE to polling places to intimidate voters.

To protect the integrity of California’s elections, this bill increases the required number of VBM drop boxes each county must have and extends the timeframe in which a timely mailed VBM ballot can still be counted when received by the elections official. The bill also extends California’s current 100-foot electioneering buffer zone to a 200-foot buffer zone, and additionally prohibits any federal, state, or local law enforcement from arresting any person within the same 200-foot buffer zone, except for arrests for specified crimes. Additionally, the bill allows an elections official to extend the hours of a polling place if the polling place’s operations were disrupted due to a violation of the buffer zone requirements, and requires any votes cast during the extended hours to be completed on provisional ballots and separated in the event of a court challenge.

The Senate Elections and Constitutional Amendments Committee is considering this bill from an elections policy perspective. This Committee’s jurisdiction extends to the constitutional issues presented by the bill, discussed below.

4. Constitutional questions

a. The United States Supreme Court’s pending vote by mail case

The United States Supreme Court is in the process of deciding whether federal law prohibits a state from accepting ballots that are postmarked on election day but

¹ E.g., Parks, *How could Trump interfere in the midterms? Here’s what voting officials are watching* (Nov. 21, 2025) NPR, <https://www.npr.org/2025/11/21/nx-s1-5599934/2026-trump-midterm-election-ballots-voting-national-guard>. All links in this analysis are current as of April 20, 2026.

² E.g., Russell, *Trump’s DOJ will monitor 5 California polling sites at state GOP request* (Oct. 24, 2026) Sacramento Bee, <https://www.sacbee.com/news/politics-government/capitol-alert/article312632919.html>.

received on a later date. In *Republican National Committee v. Wetzel*,³ the United States Court of Appeals for the Fifth Circuit held that federal law fixing elections on a specific date preempts a Mississippi state law allowing ballots postmarked on election day, but received later, to be counted.⁴ The opinion relies on the Fifth Circuit's distinction between the "selection" and "election" of candidates; the judges on the panel believed that "it makes no sense to say the electorate as a whole has made an election and finally chosen a winner before all voters' selections are received," and therefore, all votes must be received by the end of election day.⁵ The panel did not extend their logic to tallying votes; in their construction, "the result is fixed when all of the ballots are received and the proverbial ballot box is closed," but "while election officials are still receiving ballots, the election is ongoing" because "the outcome is not yet fixed."⁶

The State of Mississippi petitioned for a writ of certiorari in the Supreme Court. The petition argues that the Fifth Circuit erred because "[a]s a matter of plain meaning, an 'election' is the *conclusive choice* of an officer. Voters make that choice by casting — marking and submitting — their ballots by election day. The election has then occurred, even if election officials do not receive all ballots that day."⁷

The Supreme Court granted the petition.⁸ The Court heard oral argument in the case on March 23, 2026.⁹ Some who listened to the oral argument believed that a majority of justices seemed inclined to agree with the Fifth Circuit and are likely to hold that federal law preempts state laws that allow timely postmarked ballots received after election day to be counted.¹⁰ Others, like elections law expert Rick Hasen, thought the case could come out either way.¹¹ The Court is expected to issue its opinion in the case by the end of June of this year.

If the Court holds that federal law setting election day as the first Tuesday in November¹² preempts state laws allowing ballots postmarked by election day but received on a later date, that opinion will invalidate both California's current law

³ 120 F.4th 200, cert. granted *sub nom. Watson v. Republican National Committee* (2025) 146 S.Ct. 355.

⁴ *Id.* at pp. 203-204.

⁵ *Id.* at p. 207.

⁶ *Ibid.*

⁷ Petition for a Writ of Certiorari, *Watson v. Republican National Committee*, United States Supreme Court Case No. 24-1260, p. 1.

⁸ *Watson v. Republican National Committee* (2025) 146 S.Ct. 355.

⁹ See Docket, *Watson v. Republican National Committee*, United States Supreme Court Case No. 24-1260.

¹⁰ E.g., Sherman, *Supreme Court sounds skeptical of late-arriving ballots, a Trump target* (Mar. 23, 2026) AP News, <https://apnews.com/article/supreme-court-trump-elections-mailed-ballots-a516e60209e68642f4d74947fa06017f>.

¹¹ Hasen, Blog Post: Supreme Court Likely to Divide Closely in *Watson* over Whether States May Count Ballots Received after Election Day in Federal Elections; Key Justices Don't Tip Hands (Mar. 23, 2026) Election Law Blog, <https://electionlawblog.org/?p=155013>. Hasen himself thought the Fifth Circuit's opinion was "bonkers" and it should have been an easy reversal for the Court. (*Ibid.*)

¹² See 2 U.S.C. § 7.

regarding ballots received after election day¹³ and the provisions of this bill allowing a ballot to be counted if it is postmarked by election day and received up to 10 days later. As many have noted, a Supreme Court decision changing the election laws in at least 18 states and territories within half a year of a major federal election could create chaos in those states, as secretaries of state struggle to comply with the Court's new rules in time for the election.¹⁴

b. The First Amendment as applied to electioneering laws

Laws prohibiting electioneering conduct – posting signs, wearing clothes featuring a candidate, talking to potential voters – within a set distance of a polling place are restrictions on speech. On top of that, anti-electioneering laws are content-based restrictions, because they single out specific types of speech to prohibit. A state “must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end” to prevent such a law from being invalidated under the First Amendment.¹⁵

Electioneering laws, however, also implicate other important government interests, creating tension between “the accommodation of the right to engage in political discourse [and] the right to vote – a right at the heart of our democracy.”¹⁶ In *Burson v. Freeman*, four justices on the United States Supreme Court agreed that Tennessee had a “compelling interest” in protecting its citizens’ ability to vote freely and maintaining the integrity of elections, and that Tennessee’s 100-foot buffer zone for electioneering was sufficiently narrowly tailored to protect that interest.¹⁷ A fifth justice disagreed with the plurality’s reasoning but agreed that Tennessee’s law should be upheld as a reasonable, viewpoint-neutral regulation of a nonpublic forum.¹⁸ *Burson* thus stands for the proposition that a state can enact electioneering-free zones of 100 feet around a polling place.¹⁹

¹³ Elec. Code, § 4103 (allowing a ballot to be counted if it is postmarked by election day and received no later than seven days after election day, as specified).

¹⁴ E.g., VanSickle, *Supreme Court Appears Poised to Reject Late-Arriving Mail-In Ballots Law* (Mar. 23, 2026; updated Mar. 24, 2026) New York Times, <https://www.nytimes.com/2026/03/23/us/supreme-court-mail-in-ballots.html>. At oral argument, Justice Kavanaugh asked Paul Clement, arguing for the petitioner, whether a ruling on this issue would create problems for voters and elections administrators, but Clement did not agree there was a concern. (Hasen, Blog Post: Supreme Court Likely to Divide Closely in *Watson* over Whether States May Count Ballots Received after Election Day in Federal Elections, *supra*.)

¹⁵ *Perry Educ. Ass’n v. Perry Local Educators Ass’n* (1983) 460 U.S. 37, 45.

¹⁶ *Burson v. Freeman* (1992) 504 U.S. 191, 198 (lead opn. of Blackmun, J.).

¹⁷ *Id.* at pp. 199, 208 (lead opn. of Blackmun, J.).

¹⁸ *See id.* at p. 214 (conc. opn. of Scalia, J.).

¹⁹ *See, e.g., Minnesota Voters Alliance v. Mansky* (2018) 585 U.S.1, 13-14 (*Burson* “upheld Tennessee’s determination, supported by overwhelming consensus among States and ‘common sense’ that a campaign-free zone outside the polls was ‘necessary’ to secure the advantages of the secret ballot and protect the right to vote.”).

The Supreme Court has yet to rule on how far a state may extend a buffer zone without running afoul of the First Amendment. Following *Burson*, 300-foot buffer zones have had mixed success in the Courts of Appeals.²⁰ The Sixth Circuit invalidated a 500-foot buffer zone in Kentucky,²¹ but the Fifth Circuit approved of a 600-foot buffer zone in Louisiana, which was enacted in response to persistent voter intimidation and harassment when the buffer zone was only 300 feet.²² The key question in all of these cases was whether the state could articulate a policy reason for the buffer zone in question.

Here, a 200-foot buffer zone appears well within distances approved by the federal courts. Going forward, the author may wish to include additional findings and declarations in the bill relating to the need for the extended buffer zone, to solidify the record in the event of a challenge to the bill.

c. Doctrine of intergovernmental immunity

The United States “Constitution established a system of ‘dual sovereignty.’ ”²³ The Constitution’s Supremacy Clause provides that the Constitution and federal laws are the supreme law of the land.²⁴ Section 8 of Article I of the United States Constitution enumerates Congress’s specific powers,²⁵ and the Tenth Amendment states that “powers not delegated to the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”²⁶ “This separation of the two spheres is one of the Constitution’s structural protections of liberty...a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.”²⁷

The interplay between Congress’s enumerated powers and the states’ retained powers makes the question of whether a state law conflicts with, and is therefore preempted by, a federal law a complex one. A state law will be deemed preempted if it directly contradicts a federal law, but also if the state law stands as an obstacle to Congress’s

²⁰ Compare *Frank v. Lee* (10th Cir. 2023) 84 F.4th 1119 (approving Wyoming’s 300-foot election day buffer zone because the statute had been in place almost 50 years and the state offered a justification consistent with *Burson*) with *Russell v. Lundergan-Grimes* (6th Cir. 2015) 784 F.3d 1037 (holding Kentucky did not present a persuasive argument justifying its 300-foot buffer zone). The Ninth Circuit invalidated a Washington law establishing a 300-foot buffer zone in 1988, prior to *Burson*, so it is questionable whether their decision serves as meaningful precedent. (See *Daily Herald Co. v. Munro* (9th Cir. 1988) 838 F.3d 380).

²¹ *Anderson v. Spear* (6th Cir. 2004) 356 F.3d 651.

²² *Schirmer v. Edwards* (5th Cir. 1993).

²³ *Printz v. U.S.* (1997) 521 U.S. 898, 919.

²⁴ U.S. Const., art. VI, cl. 2.

²⁵ *Id.*, art. I, § 8.

²⁶ *Id.*, 10th amend. “Residual state sovereignty was also implicit, of course, in the Constitution’s conferral upon Congress of not all governmental powers, but only discrete, enumerated ones...which implication was rendered express by the Tenth Amendment[.]” (*Printz, supra*, 521 U.S. at p. 919.)

²⁷ *Printz, supra*, 521 U.S. at p. 921 (internal quotation marks omitted).

purpose or objectives.²⁸ Additionally, the intergovernmental immunity doctrine of the Supremacy Clause prohibits state laws from discriminating against the federal government or burdening it in some way.²⁹ There is, however, a presumption against a finding that a state law is preempted: when determining whether a state law is preempted, “courts should assume that the historic police powers of the states are not superseded unless that was the clear and manifest purpose of Congress.”³⁰

This bill prohibits any law enforcement officer – federal, state, or local – from arresting any individual within 200 feet of a polling place, except for arrests for specified crimes. Because the bill applies to all law enforcement, and does not single out federal officers, this bill does not facially discriminate against the federal government. A challenge to this law, therefore, would likely turn on whether this restriction “affects incidentally the mode of carrying out federal employment or rather seeks to control federal functions.”³¹

SUPPORT

California Federation of Labor Unions, AFL-CIO
California School Employees Association, AFL-CIO
California State Treasurer Fiona Ma
Disability Rights California
UnidosUS

OPPOSITION

None received

RELATED LEGISLATION

Pending legislation:

SB 1164 (Cervantes, 2026) repeals and replaces the CVRA to, among other things, prohibit a political subdivision or state agency from implementing, imposing, or enforcing any election policy or practice, as defined, that results in, is likely to result in, or is intended to result in, voter suppression, as defined. SB 1164 is pending before the Senate Elections and Constitutional Amendments Committee.

SB 91 (Cervantes, 2025) reduces the time period in which a county conducting an all-mailed ballot election must provide vote centers for in-person voting, from 10 days before the day of the election to 5 days. SB 91 is pending before the Assembly Elections Committee.

²⁸ *E.g., Gade v. National Solid Waste Management Ass’n* (1992) 505 U.S. 88, 98.

²⁹ *E.g., North Dakota v. U.S.* (1990) 495 U.S. 425, 436-438.

³⁰ *Arizona v. U.S.* (2012) 567 U.S. 387, 400

³¹ *United States v. California* (C.D. Cal., Feb. 9, 2026) – F.Supp.3d – , 2026 WL 363346 (cleaned up).

SB 73 (Cervantes, 2025) prohibits an elections official from permitting a federal government agency or its employees to inspect a voting system machine or device, unless authorized by a federal court order. SB 73 is pending in the Assembly.

Prior legislation:

SB 851 (Cervantes, Ch. 238, Stats. 2025) made a number of changes to California's election laws to prevent interference in elections.

SB 406 (Choi, 2025) would have required vote-by-mail ballots to be returned to the applicable elections official no later than the close of the polls on election day, except where otherwise required by federal law, to be counted as timely. SB 406 died in the Senate Elections and Constitutional Amendments Committee.

SB 335 (Strickland, 2025) would have repealed the provisions requiring a county elections official to mail a ballot to every registered voter in the county, instead authorizing a voter to request a vote-by-mail ballot for any election, as specified. SB 335 failed passage in the Senate Elections and Constitutional Amendments Committee.

AB 930 (Ward, Ch. 282, Stats. 2025) extended the time in which a vote-by-mail ballot that is postmarked on election day must be counted as timely when received by the county elections official, from three days after election day to seven days after the election.

AB 2624 (Berman, Ch. 533, Stats. 2024) prohibited a person from intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any other person for engaging in specified election-related activities, as specified.

SB 35 (Umberg, Ch. 318, Stats. 2021) among other things, expanded the categories of conduct that constitute "electioneering" for purposes of the prohibition on electioneering within 100 feet of specified voting locations.

AB 37 (Berman, Ch. 312, Stats. 2021) required county elections officials to mail a ballot to every active registered voter for all elections, and makes changes to vote by mail (VBM) processes, procedures, and requirements, including requiring at least two vote-by-mail drop-off locations within the jurisdiction or at least one drop-off location per 30,000 registered voters within the jurisdiction.
