

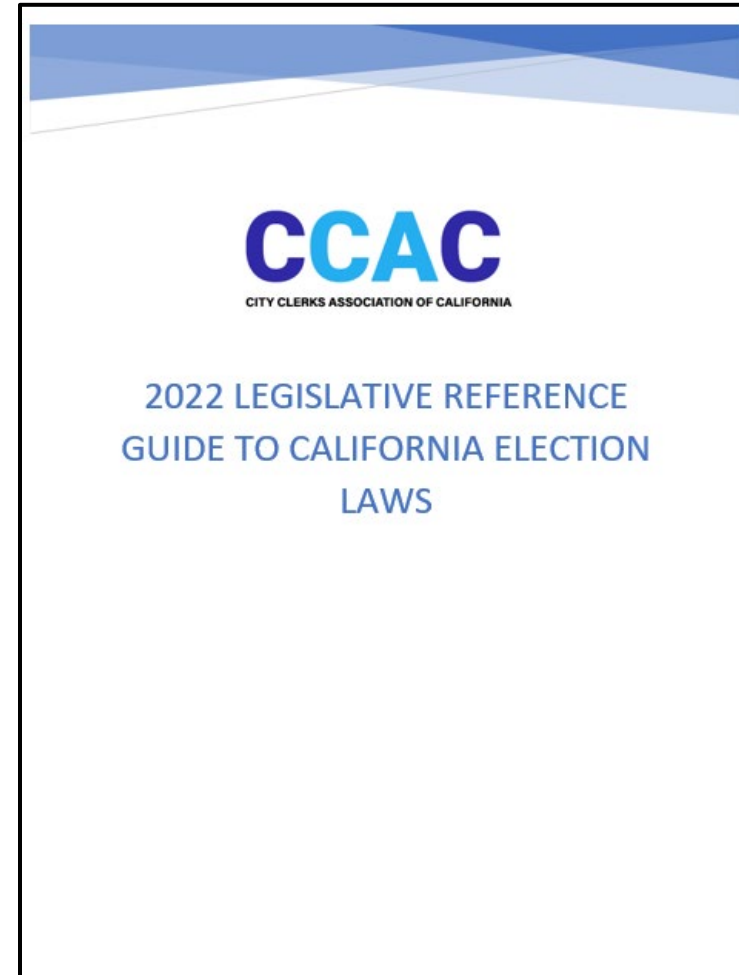
2022 City Clerk New Law Seminar

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Moderated by Randi Johl

Comparisons

2022 City Clerk New Law

Your user guide



Overview

- Elections, Polling, and Ballots
- Elections Officials and Voter Registration
- Ralph M. Brown Act
- Political Reform Act
- Redistricting

Elections, Polling & Ballots

AB 972 (Berman) – Deceptive Audio or Visual Media

- Extends the sunset date, from January 1, 2023 to January 1, 2027, of the law that prohibits the distribution of materially deceptive audio or visual media with actual malice
- Malice = intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the material includes a disclosure that it has been manipulated



AB 1416 (Santiago) – Ballot Label

- Requires ballot label for a statewide ballot measure
- The ballot label may include a listing of the names of the signers of the ballot arguments printed in the voter information guide in support of and in opposition to the measure
- A county board of supervisors may elect not to list supporters and opponents for county, city, district, and school measures on the county ballot and future county ballots
- Requires consistency for local measure ballot labels



AB 1416 Considerations

- **SOS's BDAC** – took no position on this bill but was involved in lengthy discussions about ballot length and design.
- **Longer ballots** – ballot label currently capped at 75 words, but this bill extends to 125 words to include supporters and opponents, further lengthening ballots.
- **Ballot inconsistencies** – requirements only *mandated* for statewide measures and may not be adopted in some counties. Confusing?
- **Politicizing the ballot** – does this politicize neutral ground?
- **Chicanery down the road** – certain criteria for eligibility for inclusion on the ballot could soon be gamed.

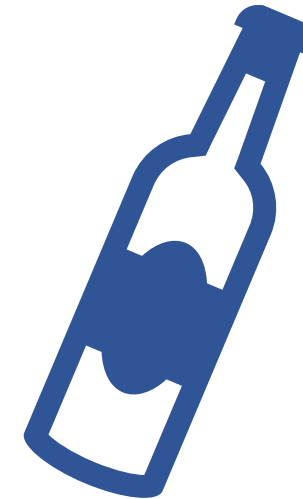
AB 1619 (Cervantes) – Voter Registration and Signature Comparison

- Requires a voter registration application to include a statement that a person's signature on an identification envelope for vote by mail will be compared against signatures in the voter's registration record



AB 2037 (Flora) – Polling Places: Alcoholic Beverages

- Allows an election official to establish a vote center or polling place in a location whose primary purpose is the sale or dispensation of alcoholic beverages



AB 2582 (Bennett) – Recall Elections: Local Offices

- Current law requires that during a local recall election there must be two questions for voters to consider:
 - Should the elected official be removed from office?
 - Who should replace the recalled official in the event they are removed from office?
- This bill requires the local recall election to include only the question of whether the elected officer should be removed from office



AB 2582 Considerations

- **Application** – revisions only apply to local general law jurisdictions.
- **Taming recalls** – narrowing the recall ballot may help curtail the influence of special interests
- **Nothing new** – Some states and local jurisdictions already follow this process for recalls, sometimes called the “automatic replacement” model

AB 2584 (Berman) – Recall Elections

- Increases the total number of proponent signatures required on a notice of intention to recall a state or elected office
- Establishes a public display period for local recall petitions
- Authorizes a voter to seek an order requiring the proponents' statement of reasons for the recall to be amended or deleted
- For schools board members, requires a petition for the recall to contain a fiscal estimate of the cost for conducting the recall election
- lengthens the timeframe for holding a local recall election that has qualified for the ballot in order to allow that election to be consolidated with a regularly scheduled election.

AB 2584 Considerations

- **Calling in the courts** – no existing process allows review of a recall proponent’s statement and the elected official’s answer for accuracy before the petition is circulated to the public. Bill calls for accountability.
- **Reigning in costs** – two elements of this bill set out to accomplish recall cost transparency and mitigation.
- **On brand** – consolidations provisions part of a statewide trend towards uniform and consistent election dates to help drive voter turnout

AB 2608 (Berman) – Vote By Mail Ballots

Urgency Clause

- Repeals provisions that specify the process for applying for a VBM ballot or for returning completed VBM ballot applications
- Repeals requirement that a VBM ballot identification envelope contain a space for the relationship to the voter of a person who is authorized to return that ballot; requires an elections official to provide a second VBM ballot to a voter's representative upon receipt of a written request
- For determining the number of VBM ballot drop-off locations that are required in counties that do not conduct elections pursuant to the California Voter's Choice Act (CVCA), the determination shall be made based on the number of registered voters in the jurisdiction as determined on the 88th day before the election.

AB 2815 (Berman) – Vote By Mail Drop-off Locations

- Requires county elections officials to make efforts to locate vote by mail (VBM) ballot drop-off locations on public college and university campuses with the following:
 - One location on the main campus of each California State University (CSU) within the official's jurisdiction
 - A county elections official must request the governing body having jurisdiction over any University of California (UC) campus within the official's jurisdiction to authorize the use of one location on that campus as a VBM ballot drop-off location
 - Requires an elections official, when selecting VBM ballot drop-off locations, to give preference to locations on California community college campuses with an annual enrollment of at least 10,000 students.
 - Requires ballot drop-off locations established pursuant to this bill to be accessible to voters with disabilities and any other specified accessibility requirements.

AB 2815 Considerations

- **Taking location requirements one step further** – to date, this is the state’s strictest drop-off location requirement.
- **Establishing VBM standards** – advances California’s trajectory toward developing clear standards for VBM elections.
- **Young voter turnout** – reaffirms importance of siting drop-off locations on college grounds to encourage young voter turnout.
- **Old bills revisited** – two 2014 bills, SB 240 (Yee) and SB 267 (Pavley), would have established similar requirements; both were amended and lost the relevant provisions.

Election Officials and Voter Registration

AB 1631 (Cervantes) – Election Officials

- County elections officials must post the public list of all polling places where multilingual poll workers will be present and the languages they will provide assistance to on the official's internet website
- Additionally, county elections officials are required to use television and the internet in their efforts to recruit multilingual poll workers



AB 1631 Considerations

- **A modest addition** – Elections Code already has provisions regarding bilingual voter support; this bill simply adds the internet as a required channel of communication.
- **Federal legal obligations** – pursuant to Voting Rights Act section 203, 28 California counties are required to provide bilingual assistance.
- **CA counties step up** – the SOS reported that 54 out of 58 counties provided support for 30 different languages in November 2018.
- **Taking the hint** – responding to SOS task force recommendations.
- **More than just mail** – mail voting model can be more difficult for minority language-speaking voters, and bilingual poll workers remain central to keeping the franchise open to the less English proficient.
- **Meeting demand** – poll worker recruitment and retention is historically low. Dependable, well-trained, bilingual poll workers are rare.

AB 2577 (Bigelow) – Uniform Filing Forms

- The Secretary of State (SOS) must establish uniform filing forms for a candidate to use when filing a declaration of candidacy and nomination papers



AB 2841 (Low) – Disqualification from Voting

Delayed implementation of January 1, 2024

- The Secretary of State must post data showing the number of conservatorship voting rights disqualifications and restorations by county, and provide training to court and county staff related to conservatorship voting rights
- A county elections official, before canceling a voter's registration, must notify the voter and provide the voter with an opportunity to correct an erroneous cancellation

SB 504 (Becker) – Voter Registration

Urgency Clause

- Makes changes to the voter registration affidavit and the information provided in the county voter information guide as it pertains to vote by mail
- Permits the Secretary of State (SOS) to adopt emergency regulations to implement provisions of law pertaining to conditional voter registration
- Requires the SOS to provide county elections officials with identifying information for persons imprisoned for the conviction of a felony and persons on parole

SB 1131 (Newman) – Address Confidentiality; Public Entity Employees and Contractors

Urgency Clause

- Makes available two programs to protect the contact information of elections officials and public entity employees more broadly:
 - SOS's Safe at Home program – extended to all workers who work for public entities who face threats of violence, actual violence, or harassment
 - State's contact information confidentiality program for certain public officials – extended to anyone who is employed by or contracts with the SOS or a local election office and who performs election-related work involving interaction with the public or public visibility
- Participants in either program have their voter registration information—including address, telephone number, and email—deemed confidential (state and local agencies are required to withhold when responding to public records requests)

SB 1131 Considerations

- **Expands existing programs** – both programs have already been available to others.
- **Work in progress?** – developed hastily and includes some impracticable features (e.g., protections available only post hoc, unclear standards). No SOS regulations yet.
- **Get ready** – officials should anticipate a significant influx of applications seeking to take advantage of the new protections as the November 2022 midterm elections conclude.

Ralph M. Brown Act

AB 2449 (Rubio) – Open Meetings: Local Agencies: Teleconferences

- Until January 1, 2026, under certain circumstances, a non-majority number of members of a Brown Act body may utilize virtual teleconferencing without publicly noticing their location and making that location accessible to the public. Certain circumstances include:
 - Just Cause:
 - Childcare or caregiving need that requires them to participate remotely
 - A contagious illness that prevents a member from attending in person
 - A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by the ADA
 - Travel while on official business of the legislative body or another state or local agency
 - Emergency Circumstances: A physical or family medical emergency that prevents a member from attending in person

AB 2449 Considerations

- **Limited application** – does not change long-standing teleconferencing laws (e.g., participating remotely while posting your location and making it accessible to the public); only if members of a legislative body wish to participate without posting of their location would the body be subject to these provisions.
- **Limited use?** – not a new mandate and would only be used if a local agency chooses to use it; broader local government community went from opposing the measure, to taking no position.

AB 2647 (Levine) – Local Government: Open Meetings

- A local agency must make agendas and public writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates
- Agencies must list the address of the office or location on the agenda for all meetings of the legislative body of the agency unless the local agency meets certain requirements

AB 2647 Considerations

- **Responding to the court** – *Sierra Watch v. Placer County*, 69 Cal.App.5th 1 (2021); clarifies what meets the letter of the law.
- **Public messaging** – local agencies should consider adding language to its agenda that documents related to an agenda item that are not available 72 hours in advance of the meeting will be available at agency headquarters and will be posted on the agency's website as soon as possible.

SB 1100 (Cortese) – Open Meetings: Orderly Conduct

- Permits the presiding member of a Brown Act legislative body or their designee to remove or cause the removal of an individual for disrupting a meeting for the following reasons:
 - A failure to comply with reasonable and lawful regulations adopted by a legislative body pursuant to [existing] law.
 - Engaging in behavior that constitutes use of force or a true threat of force.
 - ‘True threat of force’ means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.”

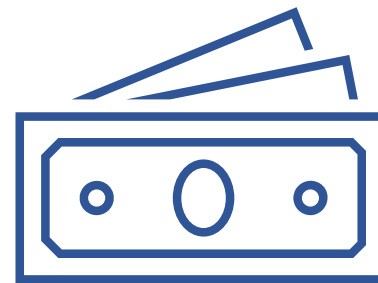
SB 1100 Considerations

- **Political climate** – uptick in disruptions in public meetings, but no clear standards for removal in state law.
- **Codifying case law** – *Acosta v. City of Costa Mesa*, 718 F.3d 800 (9th Cir. 2013).
- **Necessary?** – local agencies can already regulate public conduct at their meetings and case law provides standards for doing so.
- **Updating regulations** – local agencies should review existing policies and procedures to ensure that they align with these new statewide standards.
- **Policy in practice** – before ordering a person removed for violating its regulations, the presiding officer or their designee should consider whether the person's conduct is actually disrupting the meeting; often there are measures short of removing a person to maintain order.

Political Reform Act of 1974

AB 775 (Berman) – Contribution Requirements: Recurring Contributions

- A candidate or committee must obtain affirmative consent from a person making a recurring contribution at the time of the initial contribution and will require any solicitation for a recurring contribution to be in a form that requires affirmative consent from the person making the contribution
- Makes violations of these provisions subject to a fine of up to three times the aggregate amount of the subsequent recurring contributions received if certain specified conditions are met

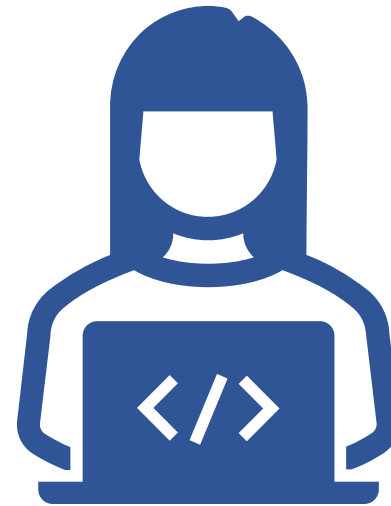


AB 775 Considerations

- **Consumer protection** – fundamentally about protecting political donors by forbidding a potentially misleading solicitation tactic
- **Financial thresholds** – tailored to punish only relatively egregious examples by administrative fine. Only recurring contributions that in the aggregate exceed one thousand dollars trigger a fine.

AB 1798 (Bryan) – Campaign Disclosure: Advertisements

- Allows an electronic media advertisement to include the prescribed disclosures directly on the advertisement itself as an alternative to linking to an internet website that contains the disclosures



AB 2528 (Bigelow) – PRA: Campaign Statements

- Require elected local government officers and candidates for elective local government office whose campaign contributions for an upcoming election equal or exceed \$15,000 and who are not currently required to file a campaign statement or related document with the Secretary of State to file specified campaign statements and related documents with the Secretary of State



AB 2528 Considerations

- **Not all documents** – treats high-grossing local elected officers, candidates, and committees as if they are state officers/candidates for purposes of campaign statements; only requires filing documents that current law also requires state officers and candidates to file with the SOS.
- **All in one place** – would help collect many campaign statements in a single location.
- The project of revamping the SoS's online filing and disclosure system – referred to as the Cal-Access Replacement System (or "CARS") – has hit several speedbumps. CARS is now projected to be ready for rollout sometime in 2025 at the earliest, meaning this bill may become operative as early as January 1, 2026

SB 749 (Glazer) – Contribution Limits

- Allows a political committee that receives a contribution that exceeds a contribution limit to accept the contribution without violating the contribution limit by returning the amount in excess of the limit or by attributing the excess amount to a different election



SB 1439 (Glazer) – Campaign Contributions: Agency Officers

- Makes all local government agencies subject to existing provisions of state law that restrict contributions to public officials from entities with business before the agency involving a license, permit, or other entitlement for use and expands the timeframe prohibiting specific contributions following an official's action from three months to 12 months



SB 1439 Considerations

- **Expanding on existing rules** – limitations on solicitation of campaign contributions and contributions triggering conflicts issues already applied to appointed local officials.
- **No retroactivity** – FPPC voted 5-0 to issue an opinion that the disqualification obligations in this bill do *not* apply retroactively to campaign donations received in 2022.

Redistricting

AB 1307 (Cervantes) – County of Riverside Citizens Redistricting Commission

- Establishes the Citizens Redistricting Commission in the County of Riverside (CRCRC), which would be charged with adjusting the boundary lines of the districts of the Board of Supervisors of the County of Riverside



AB 2030 (Arambula) – County of Fresno Citizens Redistricting Commission

- Establishes the Citizens Redistricting Commission in the County of Fresno (CFCRC), which would be charged with adjusting the boundary lines of the districts of the Board of Supervisors of the County of Fresno



AB 2494 (Salas) – County of Kern Citizens Redistricting Commission

- Establishes the Citizens Redistricting Commission in the County of Kern (CKCRC), which would be charged with adjusting the boundary lines of the districts of the Board of Supervisors of the County of Kern



Upcoming Changes to CVRA?

The California Voting Rights Act requires jurisdictions that dilute the minority vote via an at-large voting scheme to move to by-district voting

Upcoming Changes to CVRA?

- Until recently, a plaintiff need only show the presence of racially polarized voting to prevail
- Standard may change: *Pico Neighborhood Association, et al. v. City of Santa Monica*
 - Court of Appeal required vote dilution – i.e., minority sub-group numerous enough to elect candidate of choice in a by-district model
 - Adds the numerosity requirement under the Federal VRA
 - Would make the statute *significantly* more defendant-friendly
- Still being briefed and oral arguments will be set soon
- Legislative response?

Thank You!