



CITY CLERKS ASSOCIATION OF CALIFORNIA

**2021 LEGISLATIVE REFERENCE
GUIDE TO CALIFORNIA ELECTION
LAWS**

Introduction

This Legislative Guide to Election Laws has been prepared to provide you with a topline summary of measures chaptered in 2021 that effect the profession of California election officials. This guide will outline the following information:

- Legislation will be divided by subject matter, then acceding order from lowest number to highest (e.g., Subject, AB X, SB X)
- The bill number, author, and title of legislation (e.g., AB 1 (Doe) *The Example of Elections Guide Act*.
 - **Note:** A direct link to the full text of each bill is embedded in each bill number
 - **Note:** AB refers to a measure that was authored by an Assemblymember (e.g., AB XXX) and SB refers to a measure that was authored by a Senator (e.g., SB XXX)
- The chapter number of the newly enacted law (e.g., Chapter XXX, statues 2021).
- If the measure has a sunset date—meaning the program or law has a predetermined date to expire.
- If the measure has an urgency clause—meaning that the law or program went into effect immediately upon the Governor’s signature.
- If the measure has a delayed implementation date—meaning that the bill becomes operative after January 1, 2022.
- Brief summary of measure including which code sections are modified or added
- If applicable there may be an “additional considerations” section for certain bills to provide additional information.

Disclaimer

This guide is intended solely as a reference guide and is not intended to serve as a legal analysis, opinion, or technical guidance. please note that anyone using this guide bears fill responsibility to make their own determinations as to all legal standards, duties and factual materials contained therein.

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Elections, Voting and Ballots

AB 37 (Berman) Elections: Vote-By-Mail Ballots.

Chapter 312, Statutes of 2021.

Relevant Code Sections: Amends sections 3000.5, 3016.7, 3019.7, 3020, and 15101 of, to add section 3025.5 to, and to repeal section 3016.5 of, the Elections Code, relating to elections.

Summary: County election officials were already required to mail a ballot to every registered voter for all elections taking place before January 1, 2022. AB 37 extends the mail ballot requirement to all elections. It mandates a vote by mail tracking system that notifies voters when ballots are mailed, received, and counted.

- In extending the mail ballot election format, AB 37 also extended various features of that format:
 - **Mail Ballot Tracking System:** Officials were required to implement a tracking system made available by the Secretary of State for vote by mail ballots for elections before January 1, 2022—they must use that system moving forward.
 - **Disabled and Military/Overseas Voting System:** Officials were required to permit voters with disabilities and military or overseas voters to cast a mail ballot using a certified remotely accessible vote by mail ballot system for the November 2020 statewide election—they must do so moving forward.
 - **Extends Voting Time Cushion:** A mail ballot is now timely cast if it is voted on or before election day and, if returned by mail, received no later than *seven*—not three—days after election day. Officials can look to any information from USPS or a private mail delivery service to determine if the ballot was timely cast.
 - **Expands Ballot Dropoff Location Requirements:** Now, counties that don't conduct all-mail elections must provide at least two mail ballot drop-boxes or at least one for every 30,000 registered voters, whichever results in more drop-boxes. If have less than 30k, need at least one drop-box. Dropbox locations must meet the existing standards in Cal. Elec. Code section 3025.
 - **Authorizes Early Ballot Processing:** To make sure ballots are timely counted, a jurisdiction with the necessary computer capability may start processing vote by mail ballots the 29th day before any election.

Considerations:

- *Fewer mail voters will slip through the cracks.*
- *Extending ballot receipt time pushes out election certification date and gives voters more time to cure ballots under Cal. Elec. Code section 3019(d)(1)(A) (requiring voters to provide signature verification for rejected ballots in person, by mail, by fax, or by email “no later than 5pm two days prior to the certification of the election”)*

- *Also appears to give Clerks more time to contact voters with mismatching signatures, because they must be notified eight days prior to certification of election (id.)—but SB 503 (addressed infra) establishes a curing timeline that supersedes this timeline and requires City Clerks to notify voters on or before the next business day after determining that a voter’s signature does not compare or is missing.*
- *Remember that Voting Rights Act section 203 and Cal. Elec. Code section 14201 requires many counties to provide facsimile ballots and other election materials in a range of languages. As we move toward remote elections, residents less proficient in English will become more dependent on these materials as other services, like bilingual poll workers, become less relevant. Officials should consider working with their jurisdictions to ensure they have printed the required number of facsimile ballots and other minority language election materials. If possible, consider ways to enhance minority language services in other ways, such as establishing a bilingual voter helpline.*
- *This is the next step, after the California Voter’s Choice Act, to establish mail voting in the state. California has been among several states that allow counties to opt into conducting all elections by mail (we have 15 counties that already do so under the Voter’s Choice Act) but is now a universal vote-by-mail state.*

AB 1495 (L. Rivas) Vacancy Elections

Chapter 316, Statutes of 2021

Relevant Code Sections: Amends Sections 10720, 13109.7, and 13109.9 of, and adds Section 13109.10 to, the Elections Code, relating to elections.

Summary: AB 1495 requires the Governor, when a vacancy occurs in California’s representation in the United States Senate, to schedule a special primary election for the US Senate seat to be held at the next regularly scheduled statewide primary election that is at least 148 days away, with a special general election for the US Senate seat being held at the ensuing statewide general election. The person elected at the special general election would hold office for the remainder of the term. If the next regularly scheduled statewide primary election that is at least 148 days away would occur *after the end of the US Senate term*, AB 1495 requires the Governor to consult with the California Secretary of State about whether it is practical to schedule statewide special primary and general elections before the end of the term.

If the Governor determines that it is practical, the Governor would be allowed to schedule a statewide special primary *and* general election prior to the end of the term. Because it is impossible to know in advance when a US Senate vacancy may occur, and whether it would be practical to hold special elections before the end of the Senate term, this provision seeks to

ensure that the Governor has the authority to schedule special elections for the remainder of the Senate term where it is practical to do so. This provision will help ensure that any California vacancy in the US Senate is filled in a manner that is consistent with the Seventeenth Amendment to the US Constitution.

Note for Jurisdictions in Los Angeles County: The Los Angeles County ballot order pilot project (SB 25, Portantino, Chapter 927 Statutes of 2018) places federal and legislative contests at the end of the ballot, including special elections. In the case where a special vacancy election and a regular election appear on the same ballot, this could cause voter confusion or under votes when appearing at the end of the ballot. This bill aims to avoid voter confusion and under-voting by placing both the special vacancy election and the regular election for the same seat at the front of the ballot with clear descriptions.

[AB 1591 \(Committee on Elections\) Elections Omnibus Bill 2021](#)

Chapter 100, Statutes of 2021.

Relevant Code Sections: Amends Sections 13204, 13300.7, 14298, 17300, and 17303 of the Elections Code, relating to elections.

Summary: The elections omnibus bill makes a number of technical changes with respect to election operations and administration.

- Revises ballot instructions with respect to candidates for Justice of the California Supreme Court or the California Court of Appeal such that voters are no longer instructed to mark a voting target to the right of the name of the candidate, since the voting targets may not appear to the right of the name of the candidate.
- Permits a voter who wishes to opt out of receiving election materials by mail to confirm their identity by telephone or in person and allows the elections official to process that request upon confirmation of the voter's date of birth, residence address, and California driver's license number, California identification number, or a partial social security number.
- Revises the notice required to be posted at voting locations that use electronic poll books to state that only a member of the precinct board may operate the device, and that it is a misdemeanor to tamper with, manipulate, or otherwise operate or interact with the device with the intent to falsify or prevent others from ascertaining specified information about a voter, instead of stating that any person is guilty of a misdemeanor who "removes, tears, marks or otherwise defaces" the voter list.
- Specifies that if an electronic poll book is used, a copy of the electronic data file may be preserved in lieu of preserving a paper copy of the rosters or combined rosters and voter lists, if applicable.

- Deletes provisions of law that require an election official preserve, among other items, a copy of the roster used as the voting record or, if an electronic poll book is used, a copy of the electronic data file, for a period of 22 months, and instead requires the records to be preserved for five years.

SB 29 (Umberg) Elections: Vote-By-Mail Ballots.

Chapter 3, Statutes of 2021

Urgency Clause

Relevant Code Sections: Amends sections 3000.5 and 3019.7 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

Summary: Current law required county elections officials to mail a ballot to every registered voter for the November 3, 2020, statewide general election. Current law, for the November 3, 2020, statewide general election, also required county elections officials to use a specified Secretary of State vote by mail tracking system or a system that meets the same specifications. This measure extends these requirements to all elections proclaimed or conducted prior to January 1, 2022.

SB 152 (Committee on Budget and Fiscal Review) Elections.

Chapter 34, Statutes of 2021.

An Act of the 2021 Budget Effective Upon Enactment

Relevant Code Sections: Amends section 11108 of, and to add Chapter 7 (commencing with Section 1600) to Division 1 of, the Elections Code, relating to elections, to take effect immediately, bill related to the budget.

Summary: This measure authorizes a county that has previously conducted an all-mailed ballot election to conduct an all-mailed ballot election prior to January 1, 2022, if it provides, on the day of the election and the 3 days preceding the election, at least one vote center for every 30,000 registered voters and, beginning 10 days before the election and continuing up to the 4th day before the election, at least one vote center for every 60,000 registered voters. Additionally, it authorizes a county that has not previously conducted an all-mailed ballot election to conduct an all-mailed ballot election using alternative procedures substantially similar to those in effect for the November 3, 2020, statewide general election.

SB 503 (Becker) Voting: Ballots and Signature Verification.

Chapter 319, Statutes of 2021.

Relevant Code Sections: Amends sections 2194, 3019, 3026, and 15104 of, and adds section 15377 to, the Elections Code, relating to voting.

Summary: Current law requires an election’s official, upon receiving a vote by mail ballot, to verify the signature on the identification envelope by comparing it with the signature on specified records within the voter’s registration record. This bill makes a number of changes with respect to ballot and signature verification:

- Adds that the following additional parameters apply when comparing a voter’s signature with the signature in the voter’s registration record for signatures on the VBM identification envelope, signature verification statement, unsigned ballot statement, or provisional ballot envelope:
 - A presumption exists that the signature on the identification envelope, signature verification statement, unsigned ballot statement, or provisional ballot envelope is the voter’s signature.
 - An exact match is not required for an election official to determine that a voter’s signature is valid, as specified.
 - When comparing signatures, an elections official shall not review or consider a voter’s party preference, race, or ethnicity.
 - Characteristics and explanations in regulations promulgated by the SOS.
- Provides that, when comparing signatures, the signature is rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter’s registration record.
- Requires the elections official to send by first-class mail a notice to a voter of the opportunity to provide a signature or verify the voter’s non-comparing signature on or before the next business day after a determination is made that the voter’s signature is missing or does not compare with the signature on file unless certain conditions are met.
- Permits county elections officials to send additional written notices and notify the voter in person, by telephone or email, or by other means of the opportunity to either provide a signature or verify the voter’s signature.
- Defines, for purposes of the signature verification process, “certification of the election” to mean the date the particular elections official submits a certified statement of the results of the election to the governing body even if that occurs before the deadline to submit the certified statement of the election results.
- Requires an elections official to adhere to all applicable regulations promulgated by the SOS when comparing signatures.

- Requires the SOS to evaluate the necessity for procedures that will protect voters' personal identifying information from elections observers present during the signature comparison process.
- Requires the SOS to evaluate the cost and necessity of requiring an elections official to use information in the county's election management system, or otherwise in the elections official's possession, for the purpose of notifying a voter of the opportunity to verify or provide a signature. Requires the SOS evaluate the cost and necessity of requiring an elections official to send the additional written notices.
- Requires the SOS to consult with recognized elections experts, voter access and advocacy stakeholders, and local elections officials when promulgating or amending regulations pertaining to signature comparison.
- Deletes verifying addresses on the VBM ballot return envelopes from the procedures that the observers may observe and challenge.
- Requires elections officials to identify and provide the SOS within 31 days of the election the number of ballots rejected, as specified. Requires the SOS to publish a report containing this information on the SOS website.

Considerations:

- *This measure attempts to standardize the voter identity verification process, which has been somewhat inconsistent across the state or the place (Stanford ELP report and La Follette v. Padilla).*
- *New requirements demand a lot of City Clerks, both in terms of the verification procedures and the turnaround time to allow voters to cure ballots.*
- *Establishes stringent recordkeeping and reporting requirements that will create new administrative costs.*
- *Requires the Secretary of State to consult with recognized elections experts, voter access and advocacy stakeholders, **and local elections officials** when promulgating or amending regulations pertaining to signature comparison, as specified.*
- *Trainings for election officials should incorporate SB 503 requirements including identifying the reason for ballot rejection and the creation of a system to efficiently and accurately track that reason.*
- *Consider adding another layer of precautions to the election observing process, which can be challenging as election observers nationwide become increasingly zealous.*

[SB 590 \(Allen\) 2022 Statewide Primary Election: Terms of Office.](#)

Chapter 107, Statutes of 2021.

Relevant Code Sections: An act to add and repeal Section 1305 to the Elections Code, relating to elections.

Summary: Current law, Chapter 111 of the Statutes of 2020, moved the date of the statewide direct primary election in even-numbered years in which there is no presidential primary election from the first Tuesday after the first Monday in March to the first Tuesday after the first Monday in June. Current law authorizes elections for certain local offices to be held on the day of the statewide direct primary election. This measure will extend any term of office set to expire in March or April 2022, where the next scheduled regular election for that office has been consolidated with the 2022 statewide primary election, until the certification of election results from the 2022 statewide primary election.

SB 594 (Glazer) Elections: Redistricting Delays

Chapter 320, Statutes of 2021.

Urgency Clause

Relevant Code Sections: An act to amend Sections 21500, 21601, and 21621 of, to add Section 22002 to, and to add and repeal Section 22000.1 of, and Chapter 1.5 (commencing with Section 8160) to Part 1 of Division 8 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

Summary: Makes various amendments in elections code with respect to (primarily) State and (some) local redistricting including:

- **Extended Statewide Redistricting Deadline:** SB 594 explicitly tethers the statewide Citizen’s Redistricting Commission (CRC) redistricting deadline to the deadline established by the California Supreme Court in *Legislature of State of California v. Padilla* (2020), 9 Cal.5th 867 (*Padilla*), and in any subsequent proceedings in or relating to that case.
- **Revises Special District Redistricting Deadline:** For this decade’s redistricting round, special districts must adjust their boundaries either (1) by April 17, 2022, if a district has a regular election to elect members of its governing board on the same date as the 2022 statewide general election, or (2) prior to 180 days before the district’s first regular election to elect members of the governing board after January 1, 2022, if that regular election is on any date other than the June 7, 2022 statewide general election.
- **Revises Candidate Filing Deadlines:** SB 594 extends the timeline for candidacy and nomination papers and signature-in-lieu (SIL) petitions. SIL petitions must be made available starting seven days after the state redistricting deadline and to be filed not later than February 9, 2022, or 41 days after the state redistricting deadline, whichever is later. Declarations of candidacy and nomination papers must be made available on

February 14, 2022, or 46 days after the state redistricting deadline, whichever is later. This applies *only* to the June 2022 statewide direct primary election.

- **Relaxes Signature-in-Lieu Signature Requirements:** SB 594 requires elections officials to reduce the number of signatures required on an SIL petition by the same proportion as the reduction in the number of days for a candidate to collect signatures. This applies *only* to the June 2022 statewide direct primary election.
- **Relaxes Candidate Residency Requirement:** SB 594 requires a candidate for Legislature, or the Board of Equalization establish residency in the district in which the person is a candidate by the time the person *files* nomination papers, instead of at the time nomination papers *are issued* to the candidate. This applies *only* to the June 2022 statewide direct primary election.
- **Restricts Ballot Language:** SB 594 prohibits a candidate for the House of Representatives, Legislature, or the Board of Equalization from using the word “incumbent” as a ballot designation in the 2022 primary election, as specified. This applies *only* to the June 2022 statewide direct primary election.
- **Provides Flexibility for Preelection Reports/Notices:** SB 594 provides flexibility to the Secretary of State for preparing and releasing certain preelection reports and notices. This applies *only* to the June 2022 statewide direct primary election.
- **Clarifies What Qualifies as Final Adoption:** For the purposes of county, city, and special district districting or redistricting, SB 594 clarifies that the “adoption” of district boundaries means the passage of an ordinance or resolution specifying those boundaries.

Considerations:

- *Ensures that the extended redistricting timeline does not significantly overlap with the candidate filing period.*
- *“Legislature of State of California v. Padilla” extended the CRC’s deadline to December 15, 2021 and allowed for potential additional delays by allowing the deadline to be extended by the number of days of any additional delay. While SB 594 recognizes that further proceedings in Padilla could extend the CRC’s redistricting deadline a second time, the Court recently rejected additional delays, suggesting the December 15 deadline is final.*
- *Resolves ambiguity about the final adoption date, clarifying that the adoption date of a final map is the date an entity passes an ordinance/resolution, not the date the ordinance/resolution becomes effective.*
- *Provides more specific redistricting timelines guidance to special districts.*

Ralph M. Brown Act

AB 361 (R. Rivas) Open Meetings: State and Local Agencies: Teleconferences

Chapter 165, Statutes of 2021

Urgency Clause

Sunset Date January 1, 2024

Relevant Code Sections: Amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

Summary: This measure, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees. More specifically:

Removes Restrictions on Teleconferencing: Previously, if a Brown Act body wanted to hold a meeting by teleconference, all teleconference locations were to be made publicly accessible and there must be an opportunity for public comment at each teleconference location. Additionally, a quorum of the members of the legislative body were requires participating from locations physically within the jurisdictional boundaries of the agency. AB 361 loosened these requirements, providing abbreviated teleconferencing procedures.

- Specifically, AB 361 provided that, *during a declared state of emergency as defined under the California Emergency Services Act*, the above requirements are waived provided one of the following circumstances applies: (1) State or local officials have imposed or recommended measures to promote social distancing; (2) The legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (3) The legislative body has determined that, as a result of the emergency, meeting in person presents imminent risks to the health or safety of attendees.
 - If applicable, Brown Act bodies need not (1) ensure that each teleconference location is physically accessible to the public; (2) maintain quorum with members physically within the jurisdiction; or (3) provide an opportunity for public comment at each teleconference location.

New requirements for teleconferencing under the above circumstances:

- Need to post agenda, but it does not need to list each teleconference location or be physically posted at each teleconference location.
- Where there is a disruption in the public broadcast of the call-in or internet-based meeting service, the legislative body must cease and take no further action on agenda items until public access is restored.
- Local agencies are also prohibited from requiring public comments to be submitted in advance of the meeting and cannot close the comment period or opportunity to register online until the timed public comment period has elapsed.
- Finally, every 30 days the legislative body acting under the teleconference exemptions must make findings about whether the circumstances explained above still apply. The body must find that it reconsidered the circumstances of the state of emergency and that one of the following circumstances exist: (1) the emergency continues to directly impact the ability of members to safely meet in person; or (2) state or local officials continue to impose or recommend measures to propose social distancing—otherwise, normal requirements apply.

Considerations:

- *Some local governments only meet once a month, yet the statute requires new findings every 30 days.*
- *By establishing such an extraordinarily high standard for agencies to meet remotely, this bill doesn't create Brown Act exceptions likely to apply in a broad slate of future emergencies. An agency would not be able to rely upon these provisions to meet remotely if the emergency does not pose a threat to the agency.*

[SB 274 \(Wieckowski\) Local Government Meetings: Agenda and Documents.](#)

Chapter 763, Statutes of 2021.

Relevant Code Sections: Amends section 54954.1 of the Government Code, relating to local government.

Summary: The Ralph M. Brown Act requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This measure requires a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email.

If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by email or by other electronic means, the measure will require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet.

Considerations:

- *Previously, mailed agendas were sometimes received after a meeting ended. SB 274 makes it easier for constituents to become informed about the actions under consideration by their local governments and to voice their concerns in a timely manner.*
- *Impacts all or nearly all cities and could impose administrative/operational costs involved in determining whether emailing a link/agenda packet is technologically feasible and mailing the agenda if it is not.*
- *To most efficiently comply with SB 274, City Clerks should consider a new feature in which residents input their email to receive links to applicable public agendas if they do not already have one—however, this may create a new one-time cost to add or modify current practices.*

Political Reform Act

AB 319 (Valladares) Political Reform Act of 1974: Contributions: Foreign Governments or Principals.

Chapter 313, Statutes of 2021.

Relevant Code Sections: An act to amend Section 85320 of the Government Code, relating to the Political Reform Act of 1974.

Summary: The Political Reform Act of 1974, provides for the comprehensive regulation of campaign financing, including requiring the reporting of campaign contributions. A violation of the act's provisions is punishable as a misdemeanor and subject to specified penalties. The act prohibits a foreign government or principal, as defined, from making a contribution or expenditure in connection with a ballot measure. The act also prohibits a person or committee from soliciting or accepting a contribution from a foreign government or principal for this purpose. This measure expands this prohibition to include contributions and expenditures in connection with an election of a candidate to state or local office.

Considerations:

- *This is a straightforward expansion on the PRA's existing prohibitions. PRA previously only prohibited a foreign government or principal from making, or a person or*

committee from soliciting, a contribution or expenditure in connection with a ballot measure, not the election of a candidate.

- *Even though federal law already prohibits these contributions, the FEC often deadlocks or is exceptionally slow to hear cases involving foreign interference and contributions from foreign principals, meaning some violations involving California elections remain unresolved. AB 319 makes enforcement more likely by giving the FPPC concurrent jurisdiction over issues involving foreign contributions in state and local elections*

AB 1367 (Low) Political Reform Act of 1974: Committee Accounts and Campaign Funds.

Chapter 351, Statutes of 2021

Relevant Code Sections: Amends Section 89521 of the Government Code, relating to the Political Reform Act of 1974.

Summary: The Political Reform Act of 1974 prohibits the use of campaign funds for certain purposes, including expenditures that confer a substantial personal benefit that is not directly related to a political, legislative, or governmental purpose. The act makes any person who makes or receives an honorarium, gift, or expenditure in violation of the provisions relating to campaign funds liable in a civil action brought by the Fair Political Practices Commission for an amount of up to 3 times the amount of the unlawful honorarium, gift, or expenditure. This measure makes a person who uses campaign funds in a manner that violates these provisions and results in an egregious personal benefit liable in an administrative or civil action brought by the commission for an amount of up to 2 times the amount of the unlawful expenditure. The bill defines “egregious personal benefit” to mean a direct personal benefit with a total value of \$10,000 or more to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee.

Considerations:

- *By increasing the penalties for unlawfully using campaign funds, AB 1367 further discourages the unlawful use and accounting of campaign funds.*
- *Previously, the penalty for misuse of campaign funds was capped at the PRA’s maximum administrative penalty of \$5,000. But the PRA already authorized higher penalties for violations of certain provisions (e.g., a person who violates certain advertisement disclosure requirements is liable in a civil or administrative action for up to three times the cost of the advertisement). AB 1367 simply adds a category of PRA violations that are subject to more severe penalties.*
- *While AB 319 gives the FPPC new jurisdiction, AB 1367 gives the FPPC more penalty authority.*

AB 1590 (Committee on Elections) Political Reform Act of 1974.

Chapter 317, Statutes of 2021.

Relevant Code Sections: Amends Sections 82047.7 and 84101.5 of the Government Code, relating to the Political Reform Act of 1974.

Summary: The Political Reform Act of 1974, defines numerous terms that govern its interpretation, including “proponent of a state ballot measure,” which it defines by reference to a definition in the Elections Code. This bill makes a technical change by revising its definition of “proponent of a state ballot measure” to refer to the correct section in the Elections Code. Moreover, current law requires the Secretary of State to charge each committee that is required to file a statement of organization a fee of \$50 per year until the committee is terminated. The act requires each committee to pay the fee within specified deadlines. This measure clarifies that a committee that fails to timely pay the annual fee is subject to an administrative penalty of \$150. This measure transfers responsibility for enforcing these requirements to the Secretary of State.

Considerations:

- *Prior to AB 1590, it was unclear whether the FPPC had authority to enforce the filing fee beyond the \$150 penalty by imposing additional monetary penalties through administrative enforcement actions. AB 1590 resolves this question by eliminating the FPPC’s role in enforcement and consolidating collection of the original fee and the penalty under the SOS.*

[SB 686 Glazer Limited Liability Company Campaign Disclosure Under the Political Reform Act of 1974](#)

Chapter 321, Statutes of 2021

Relevant Code Sections: An act to add Section 84109 to the Government Code, relating to the Political Reform Act of 1974.

Summary: SB 686 requires a limited liability company (LLC) that is engaged in campaign activity to provide additional information regarding the members and capital contributors to the LLC. Specifically, it requires an LLC that qualifies as a committee or a sponsor of a committee under the Political Reform Act to file a statement of members with the Secretary of State. That statement must include certain information about the LLC, including a list of all persons who have a membership interest in the LLC of at least 10% or who made a cumulative capital contribution of at least \$10,000 to the LLC after it qualified as a committee or sponsor of a committee, or within the 12 months before it qualified.

California Public Records Act

AB 473 (Chau) California Public Records Act.

Chapter 614, Statutes of 2021.

Delayed Implementation of January 1, 2023

Relevant Code Sections: An act to add and repeal Article 3 (commencing with Section 6276.50) of Chapter 3.5 of Division 7 of, and to add Division 10 (commencing with Section 7920.000) to, Title 1 of the Government Code, relating to public records.

Summary: AB 473 does not substantively change the CPRA. Instead, it reorganizes the Government Code, effective January 1, 2023. It included additional provisions proposed by AB 386, AB 562, and SB 823, to take effect only if those bills were enacted and AB 473 were enacted last. While AB 386 passed, the other two did not. AB 473 provides that any outdated references to provisions of the CPRA must be interpreted to apply to the related provision of the Government Code as it is now reorganized. While AB 473 states that judicial and Attorney General opinions pertaining to the CPRA prior to its reorganization are relevant to its interpretation, it passes no judgement on the accuracy of those opinions.

Considerations:

- *This will likely make the CPRA more user friendly. Since its enactment, the CPRA has been revised many times, in a somewhat piecemeal fashion. This has resulted in a statute that is poorly organized and cumbersome for the elections professionals, legal professionals as well as for the general public to use and understand, impeding fulfillment of the goals underlying the CPRA.*

AB 474 (Chau) California Public Records Act: Conforming Revisions.

Chapter 615, Statutes of 2021.

Delayed Implementation of January 1, 2023

Relevant Code Sections: Adds and repeals Article 3 (commencing with Section 6276.50) of Chapter 3.5 of Division 7 of, and to add Division 10 (commencing with Section 7920.000) to, Title 1 of the Government Code, relating to public records.

Summary: Given that AB 473 shuffles provisions of the CPRA, AB 474 updates references to the CPRA in the Government Code to reflect the reorganization and recodification of those provisions. Like AB 473, it is not substantive. In fact, it contains a yielding clause, so any legislation that takes effect before January 1, 2022, supersedes its changes. Takes effect at the same time as AB 473—January 1, 2023.

SB 16 (Skinner) Peace Officers: Release of Records.

Chapter 402, Statutes of 2021

Relevant Code Sections: Amends section 1045 of the Evidence Code, amends sections 832.5, 832.7, and 832.12 of, and to add section 832.13 to, the Penal Code, relating to peace officers.

Summary: Current law makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency, or information obtained from these records, confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery. Current law sets forth exceptions to this policy, including, among others, records relating to specified incidents involving the discharge of a firearm, sexual assault, perjury, or misconduct by a peace officer or custodial officer. Existing law makes a record related to an incident involving the use of force against a person resulting in death or great bodily injury subject to disclosure. Current law requires a state or local agency to make these excepted records available for inspection pursuant to the California Public Records Act, subject to redaction as specified. This measure makes a sustained finding involving force that is unreasonable or excessive, and any sustained finding that an officer failed to intervene against another officer using unreasonable or excessive force, subject to disclosure.

Considerations:

- *There could be a significant uptick in CPRA requests given renewed public salience of police misconduct. Especially considering this possibility, take careful note of recordkeeping and turnaround time requirements.*
- *Clarity with respect to redaction to preserve anonymity of witnesses, complainants, victims, and whistleblowers is needed to expressly direct whether this is mandated or permissive. While the language establishing redaction as a requirement is ambiguous (“An agency shall redact a record disclosed pursuant to this section only for any of the following purposes. . .”), earlier analysis of SB 1421 establishes that redaction was intended as mandatory. (See Senate Bill Policy Committee Analysis, June 26, 2018 [“Requires redaction as follows. . .”].) Moreover, the mandatory language in Penal Code section 832.7(b)(6) contrasts with the permissive language in subdivision (b)(7), which allows—but does not require—redactions where “the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.” For these reasons, Penal Code section 832.7(b)(6) might be best read as a requirement that local agencies redact the information described therein. However, analysis of SB 16 contains solely permissive language (“permit” and “may”).*
- *New redaction requirements (if they are requirements) may make disclosures under the CPRA more burdensome.*

[Civic Engagement and Voter Registration](#)

[AB 46 \(Rivas\) California Youth Empowerment Act.](#)

Chapter 660, Statutes of 2021.

Relevant Code Sections: An act to add and repeal Chapter 3.4 (commencing with Section 8261) of Division 1 of Title 2 of the Government Code, relating to youth.

Summary: This measure creates the California Youth Empowerment Act to address, among other issues, the growing need to engage youth directly with policymakers. This measure establishes the California Youth Empowerment Commission in state government consisting of 13 voting commissioners between 14 and 25 years of age and meeting specified requirements, with 11 members appointed by the Governor, one at-large member appointed by the Senate Committee on Rules, and one at-large member appointed by the Speaker of the Assembly, along with several ex officio, nonvoting members from various geographic regions of the state. Additionally, it will establish the commission to be advisory in nature, for the main purpose of providing meaningful opportunities for civic engagement to improve the quality of life for California's disconnected and disadvantaged youth.

[AB 796 \(Berman\) Voter Registration: California New Motor Voter Program.](#)

Chapter 314, Statutes of 2021.

Relevant Code Sections: Amends section 5100 of, to amend and renumber sections 2263, 2265, 2266, 2267, 2268, 2269, and 2270 of, to amend, renumber, and add sections 2262 and 2264 of, to add sections 2272, 2273, 2274, and 2276 to, and to add and repeal section 2275 of, the Elections Code, relating to voter registration.

Summary: This measure requires a driver's license or identification card application, renewal, or change of address notification to include a voter registration application and requires the Department of Motor Vehicles to transmit the application to the Secretary of State. The measure requires the Department of Motor Vehicles to monitor the timeliness of its transmittals to the Secretary of State, and to provide the Secretary of State information regarding delays and irregularities in its ability to do so. It also requires the Department of Motor Vehicles and the Secretary of State each to designate an employee to undertake new responsibilities to ensure compliance with the California New Motor Voter Program and the National Voter Registration Act. Lastly, this measure requires the Secretary of State to convene a task force that would provide advice and perform other duties with respect to implementing the California New Motor Voter Program. More specifically AB 796:

- **Codifies NVRA and Settlement Agreement:** AB 796 codifies into state law voter registration information transmittal requirements in the federal National Vote Registration Act (NVRA) of 1993. The bill also codifies many of the provisions of the settlement agreement that followed the *League of Women Voters v. Annis* lawsuit regarding the challenges with modernizing voter registration and bringing California in compliance with the NVRA. The settlement agreement will expire in early 2022.

- **Application and Transmittal Deadlines:** Requires a driver’s license or identification card application, renewal, or change of address notification to include a voter registration application and would require the Department of Motor Vehicles to transmit the application to the Secretary of State.
- **Designated Employee:** Requires the Department of Motor Vehicles to monitor the timeliness of its transmittals to the Secretary of State, and to provide the Secretary of State information regarding delays and irregularities in its ability to do so. The DMV and SOS will each designate an employee to undertake specified responsibilities to ensure compliance with the California New Motor Voter Program and the National Voter Registration Act.
- **Taskforce:** Requires the Secretary of State (SOS) to establish a taskforce to provide advice, evaluate, and perform other duties with respect to implementing the California New Motor Voter Program (CNMVP)
- **Interagency Agreement:** The DMV and the SOS must develop and enter into an interagency agreement specifying how they will cooperate to fulfill the requirements of this bill, to be updated as necessary.

Governmental Bodies and Candidates

AB 428 (Mayes) Local Government: Board of Supervisors.

Chapter 462, Statutes of 2021.

Relevant Code Sections: An act to amend Sections 25000 and 25300 of the Government Code, relating to local government.

Summary: Current law requires each county to have a board of supervisors and provides for the organization and powers of the board of supervisors. Current law allows the board of supervisors of any general law or charter county to adopt or the residents of the county to propose, by initiative, limit or repeal a limit on the number of terms a member of the board of supervisors may serve on the board of supervisors. Current law also requires the board of supervisors to prescribe the compensation for all county officers. This measure requires that, when term limits are imposed, the limit must be no fewer than 2 terms. Also, it specifies that the board of supervisors is included in the definition of county officers for whom the board of supervisors is required to prescribe compensation. The bill specifies that it would not affect any term limits that were legally in effect prior to January 1, 2022, in any county.

SB 35 (Umberg) Elections. Candidate Requirements

Chapter 318, Statutes of 2021.

Relevant Code Sections: Amends sections 319.5, 8902, 8903, 18370, 18541, and 18568 of, and to add sections 18372 and 18504 to, the Elections Code, relating to elections.

Summary: This measure makes various changes in the elections code including:

Expands Prohibited Activities Near Voting Sites: SB 35 expands on the activities prohibited within 100 feet of a polling place, an election official's office, or a satellite voting location. Specifically, it prohibits obstructing ingress, egress, and parking within 100 feet of the entrance to a building that contains a polling place, an elections official's office, a satellite voting location, or an outdoor site at which a voter may cast or drop off a ballot. A violation is punishable as a misdemeanor.

- **Prohibition on Vote Solicitation:** SB 35 also prohibits a person from soliciting a vote, speaking to a voter about marking the voter's ballot, or disseminating visible or audible electioneering information in the immediate vicinity of a voter in line to cast a ballot or drop off a ballot. "Electioneering information" means *any* information that advocates for or against any candidate or measure on the ballot, including the display of a candidate's name, likeness, or logo. A violation is punishable as a misdemeanor.
- **New Notice Requirements:** SB 35 requires notice regarding prohibitions on electioneering and activity related to corruption of the voting process to be provided to the public. It tasks the Secretary of State to promulgate regulations specifying how such notice is to be given.
- **Extends Deadline for Tax Returns:** SB 35 extends an existing deadline for a candidate for Governor to submit tax returns to the Secretary of State (SOS) in order to have the candidate's name printed on the direct primary election ballot. It also changes the process for submitting those documents.
- **New Penalties:** Expands existing penalties for election interference to impose a penalty on (1) a person who displays a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box and (2) a person who directs or solicits a voter to place a ballot in such a container.

Considerations:

- *Look out for the SOS's notice requirements moving forward. Elections officials are required to comply with the notice requirements promulgated by the SOS.*
- *New prohibitions and penalties intended to provide new protections for the state's vote-by-mail election format.*

- *As polling location obstruction, harassment, and intimidation becomes increasingly prevalent, it is more important than ever that elections officials understand the updated scope of the prohibitions in the Elections Code.*

Miscellaneous Measures

AB 378 (Bauer-Kahan) Public Officials.

Chapter 50, Statutes of 2021.

Relevant Code Sections: This measure modifies every government code section in current law that has gender specific language.

Summary: Current law establishes in state government the offices of the Governor, Lieutenant Governor, Secretary of State, Treasurer, Controller, Attorney General, Board of Equalization, and Insurance Commissioner. Current law, the Political Reform Act of 1974, regulates campaign finance, ethics, and conflicts of interest of public officials, and the conduct of lobbyists, lobbying firms, and lobbying employers. Current law, the California Coastal Act of 1976, establishes the California Coastal Commission and requires specified commissions and agencies to review the provisions of the act. This measure removes gendered language from these provisions.

PowerPoint Presentation

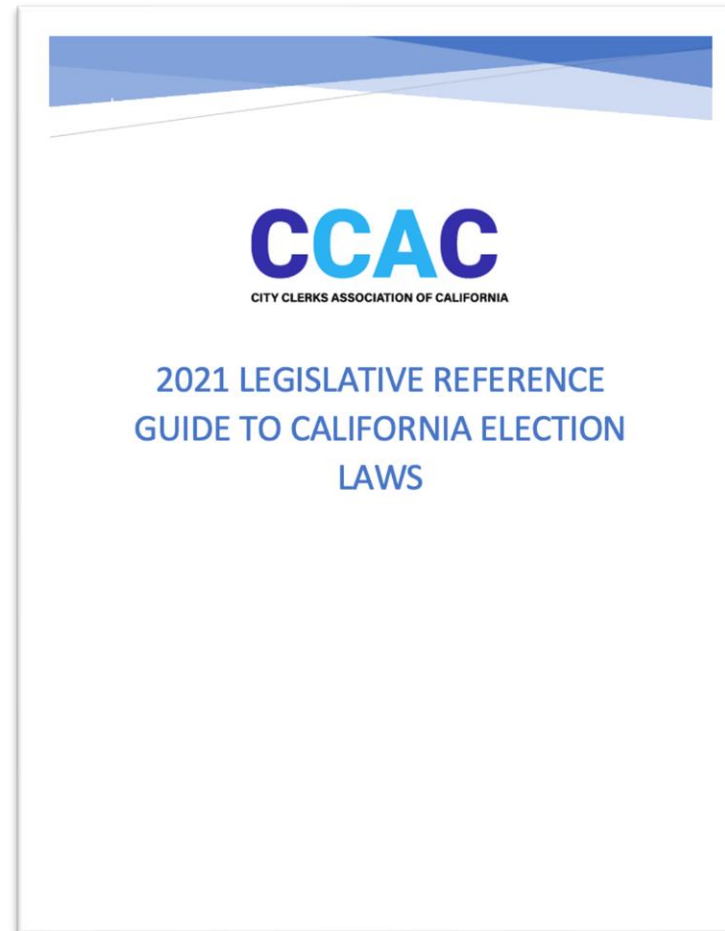
2021 City Clerk New Law

Dane Hutchings and Michael S. Cohen
Moderated by Randi Johl

City Clerk New Law User Guide

2021/2022 City Clerk New Law

Your user guide



Overview

- Redistricting Timeline
- Elections & Initiatives
- Operations/Brown Act
- Public Records Act
- Political Reform Act
- Miscellaneous
- Upcoming Changes to CVRA?

Redistricting Timeline

- **Citizens Redistricting Commission: Dec. 27, 2022**
- **Counties/General Law Cities**
 - If regular election Jan. 1 – July 1, 2022: **E-174**
 - If regular election after July 1, 2022: **E-205**
- **Charter Cities**
 - General law deadline applies unless ordinance/charter provides otherwise
- **County Board of Education Districts: Mar. 1, 2022**
- **School and Community College District: Feb. 28, 2022**
- **Special Districts (where required)**
 - If regular election same as statewide general: **Apr. 17, 2022**
 - If regular election not same as statewide general: **E-181**

E = date of jurisdiction's next regular election

SB 594 (Glazer) Elections: Redistricting Delays **Urgency Clause**

- SB 594 extends statewide redistricting deadline
- Revises special district redistricting deadline
- Revises candidate filing deadlines
- Relaxes signature-in-lieu requirements
- Relaxes candidate residency requirement
- Restricts ballot language
- Provides flexibility for preelection reports/notices
- Clarifies what qualifies as final adoption



SB 594 Considerations

- Ensures that the extended redistricting timeline does not significantly overlap with the candidate filing period
- *Leg. of State of Cal. V. Padilla* extended the CRC's deadline to Dec. 27—is the extension final?
- Resolves ambiguity about the final map adoption date
- Better redistricting timeline guidance for special districts

Elections & Initiatives

AB 37 (Berman) - Vote by Mail Elections

- Extends requirement to mail a ballot to every registered voter for elections before January 1, 2022 to all elections
- Extends various features of the mail ballot election format as implemented in 2020, including:
 - Mail Ballot Tracking System
 - Disabled and Military/Overseas Voting System
 - Voting Time Cushion
 - Expands Ballot Dropoff Location Requirements
 - Authorizes Early Ballot Processing



AB 37 Considerations

- Finally establishes CA as a universal vote-by-mail state
- Pushes out election certification date and gives voters more time to cure ballots
 - But because of SB 503, this does not change the timeline for contacting voters with mismatching signatures
- Impacts obligations under VRA § 203 and Elec. Code § 14201?
- More drop-boxes sited in your city?

SB 503 (Becker) - Mail Ballot Signature Verification

- Standardizes signature matching procedures and makes it more difficult to reject a ballot for mismatching signatures
- Protects voter identity from election observers
- Tracks mail ballot rejection



SB 503 Considerations

- Standardizes the voter identity verification process
- Must update ballot processing trainings for elections officials
- SOS must consult with a range of stakeholders on regulations pertaining to signature comparison—including local elections officials
- Adds another layer of protections from elections observers
- Stringent recordkeeping/reporting requirements could create administrative costs

SB 152 (Budget)– Recall Elections

- Changes to the certification process for recall elections
- Clarifies the process to hold the recall election
- Provides an appropriation of \$35 million from the General Fund to the Secretary of State to support the costs of the election

SB 590 (Allen) - statewide primary election: terms of office.

- Any term of office set to expire in March or April 2022, where the next scheduled regular election for that office has been consolidated with the 2022 statewide primary election, can be extended to expire immediately after that election
- Solves a problem unique to cities, targeting LA especially

AB 796 (Berman) - Cal. New Motor Voter Program (CNMVP)

- Codifies NVRA and *League of Women Voters v. Annis* settlement agreement
- Requires a driver's license or ID application, renewal, or change of address notification to include a voter registration application
- Expands opportunities to register to vote



SB 35 (Umberg)- Voting Obstruction & Candidate Tax Returns

- Expands on prohibited activities near voting sites
- New polling location notice requirements from SOS
- Expands existing penalties for election interference
- Extends deadline for a candidate for Governor to submit tax returns

AB 1495 (L. Rivas) - U.S. Senate Vacancy Elections

- Requires vacant seats to be filled by election
- Includes ballot notification requirement
 - Carveout for LA County

Operations/Brown Act

AB 361 (R. Rivas)- Teleconferencing **Urgency Clause. Sunsets Jan. 1, 2024.**

- Loosens restrictions on teleconferencing and provides abbreviated procedures
- Waives certain requirements during a declared state of emergency if there is a need for social distancing or a risk to the health or safety of attendees
 - Must make new findings every 30 days
 - High standard, especially absent statewide emergency declaration
 - Many cities opting to forego this invitation

SB 274 (Wieckowski) Local Government Meetings: Agenda and Documents

- Establishes that a person can request that a copy of the meeting agenda of any meeting of a legislative body be emailed to them for any local agency with a website
 - If technologically infeasible, the bill defaults to existing requirements regarding physical mail

SB 274 Considerations

- Speedier agenda access allows for more informed and engaged constituents
- Impacts nearly all cities
- Could impose administrative/operational costs

Public Records Act

AB 473 (Chau) - Reorganizing CPRA

- Reorganizes the Gov. Code, effective Jan. 1, 2023
- Outdated references to the CPRA must be interpreted to apply to the Gov. Code as it is now reorganized
- CPRA will become more user friendly, but...time to re-learn those section numbers and be careful with the copy-paste function!

AB 474 (Chau) Technical Changes to CPRA

- AB 474 updates references to the CPRA in the Gov. Code to reflect reorganization/recodification
- Not substantive
- Takes effect Jan. 1, 2023

SB 16 (Skinner) - Police Personnel Records

- Expands the categories of police personnel records subject to disclosure under CPRA
 - Note redaction, recordkeeping, and timeline requirements
- Phases in the new requirements
- Possible uptick in CPRA requests?

Political Reform Act

AB 319 (Valladares) - Adding to the Political Reform Act

- Prohibits foreign contributions/expenditures
- Prohibits solicitation or acceptance of a contribution from a foreign government or foreign principal in connection with the election
- Overlaps with federal law, but makes enforcement more likely by giving the FPPC concurrent jurisdiction

AB 1367 (Low) - Adding to the Political Reform Act

- Further discourages improper use of campaign funds by increasing the penalties for unlawful personal use of campaign funds

AB 1590 (Elec. Comm) - Modifying the Political Reform Act

- Transfers report enforcement authority for fee provision of PRA to the SOS
 - Resolves question of FPPC authority
- Corrects a cross-reference error in the PRA

SB 686 (Glazer) – LLC Campaign Activity Disclosure

- SB 686 requires an LLC engaged in campaign activity to provide additional info on the members and capital contributors to the LLC
 - Statement must include a list of all persons who have a threshold membership interest in or made a threshold level of contributions to LLC
- Another small step toward greater transparency in corporate campaign activity

Miscellaneous

AB 428 (Mayes)- Board of Supervisors Term Limits

- Establishes a minimum of two terms allowed for the term limits of a county supervisor
- Includes compensation prescription requirement for boards
- Does not affect any term limits that were legally in effect prior to Jan. 1, 2022

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, effectively adding the numerosity requirement under the Federal VRA
- Requiring CVRA plaintiffs to show vote dilution would make the statute *significantly* more defendant-friendly
 - How would the Legislature respond?

Thank You!