Date of Hearing: May 13, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Sebastian Ridley-Thomas, Chair
AB 547 (Gonzalez) – As Amended April 29, 2015

SUBJECT: Elections: special elections: all-mailed ballot elections.

SUMMARY: Expands a previously authorized mailed ballot election pilot project in San Diego County to allow certain local elections held in San Diego County to be conducted pursuant to the provisions of that project. Repeals a requirement that a special election to fill a vacancy in the Legislature or Congress can be conducted pursuant to the pilot project only if the district is located entirely in San Diego County. Allows any school district, special district, or small city, as defined, to conduct a special election for a local ballot measure as an all-mailed ballot election. Specifically, **this bill**:

1) Makes the following modifications to a previously authorized pilot project under which San Diego County is permitted to conduct a special election to fill a vacancy in the Legislature or in Congress as a mailed ballot election, subject to certain conditions:

   a) Expands the pilot project to allow any special election to be conducted as an all-mailed ballot election if the election is to fill a vacancy in a governing body or to vote on a local ballot measure, and is for San Diego County, or any city, school district, community college district, special district, or other district or political subdivision organized pursuant to state law whose boundaries are located wholly or in part within San Diego County (hereinafter referred to as an "eligible entity");

   b) Repeals a requirement, if the election conducted pursuant to the pilot is a special election to fill a vacancy in the Legislature or in Congress, that the district for which the special election is being held must be located entirely within San Diego County;

   c) Requires the governing body of an eligible entity that seeks to conduct an election pursuant to the pilot project to authorize the use of mailed ballots for the election;

   d) Clarifies that at elections conducted under the pilot project, the elections official is required to ensure that a polling place is staffed by precinct board members who speak languages other than English if federal law requires the elections official to recruit precinct board members who are fluent in those languages for precincts that are consolidated at that polling place;

   e) Requires bilingual voter education workshops and voter education workshops designed to increase accessibility for participation of voters with disabilities that are required to be conducted under the pilot project to be conducted in-person;

   f) Makes the eligible entity for which the election is being conducted responsible for complying with the requirements of the pilot project, including the reporting requirement; and,

g) Extends the date of the pilot project by one year, to January 1, 2021.

2) Permits the following jurisdictions to conduct any special election held to vote on a local ballot measure as an all-mailed ballot election:

   a) Cities with a population of 100,000 or less, as determined by the annual city total population rakings by the Demographic Research Unit of the Department of Finance;

   b) School districts; and,

   c) Special districts.

3) Makes technical and corresponding changes.

EXISTING LAW:

1) Permits a special election in San Diego County, held before January 1, 2020 to fill a vacancy in the Legislature or in Congress, to be conducted by mailed ballot subject to all of the following conditions:

   a) The legislative or congressional district lies wholly within San Diego County;

   b) The election does not occur on the same date as a statewide primary or general election, or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted wholly by mail;

   c) At least one ballot drop-off location is provided per city, and at least one drop-off location is provided in unincorporated areas for every 100,000 registered voters, and such locations are open during business hours to receive voted ballots beginning not less than seven days before the election;

   d) The elections official provides for at least six hours of voting at a satellite location within the congressional or legislative district on at least one Saturday and Sunday after the ballots are delivered to voters;

   e) At least one polling place is provided per city or the polling places are fixed in a manner so that there is one polling place for every 10,000 registered voters within the district, as specified, whichever results in more polling places. Provides that a polling place shall allow voters to request a ballot between 7 a.m. and 8 p.m. on the day of the election if they need replacement ballots for any reason;

   f) Polling places are established in accordance with existing state and federal accessibility requirements, and access to polling places is evenly distributed throughout the congressional or legislative district;

   g) For polling places that consolidate one or more precincts for which the elections official is required to recruit precinct board members who are fluent in a language in addition to English pursuant to existing state or federal law, the elections official makes reasonable

efforts to ensure that the polling place is staffed by precinct board members who speak those languages;

h) Each voter receives all supplies necessary for the use and return of the mail ballot, including a return envelope for the voted ballot with postage prepaid;

i) Each voter receives all of the following from the elections official:

    i) A notice, translated into all languages as required by state and federal law, that informs voters of the following:

        (1) That the election is being conducted by mail and that each eligible voter will receive a ballot by mail;

        (2) The voter may cast a ballot in person at a satellite location; and,

        (3) The voter may request the county elections official to send a ballot in a language other than English pursuant to state and federal law.

    ii) A list of the ballot drop-off and polling place locations, and that list is posted on the Internet Web site of the county elections office; and,

    iii) A postage-paid postcard that the voter may return to the elections official for the purpose of requesting a ballot in a language other than English.

2) Requires San Diego County, if it conducts an election by mailed ballot pursuant to the provisions outlined above, to report to the Legislature and to the Secretary of State regarding the success of the election, including, but not limited to, any statistics on the cost to conduct the election; the turnout of different populations, including, but not limited to and to the extent possible, the population categories of race, ethnicity, language preference, age, gender, disability, permanent vote by mail status, and political party affiliation as it relates to the languages required under the federal Voting Rights Act; the number of ballots that were not counted and the reasons they were rejected; voter fraud; and any other problems that became known to the county during the election or canvass. Requires the report, whenever possible, to compare the election conducted under the pilot project to similar elections not conducted as mailed ballot elections in the same jurisdiction or comparable jurisdictions.

3) Permits an election to be conducted wholly by mail if the governing body authorizes the use of mailed ballots for the election, the election occurs on an established mailed ballot election date, and the election is one of the following:

a) An election in which no more than 1,000 registered voters are eligible to participate;

b) An election in a city, county, or district with 5,000 or fewer registered voters that is restricted to the imposition of special taxes, expenditure limitation overrides, or both;

c) An election on the issuance of a general obligation water bond;

d) An election in one of four specifically enumerated water districts; or,

e) An election or assessment ballot proceeding required or authorized by the state constitution under Proposition 218.

4) Authorizes a school district or city with a population of 100,000 or less to conduct an all-mail ballot election to fill a vacancy in a special election.

5) Authorizes a district to conduct any election as an all-mailed ballot election on any date other than an established election date.

6) Permits San Mateo and Yolo counties, as part of a pilot program lasting through January 1, 2018, to conduct elections on up to three dates as all-mailed ballot elections, subject to certain conditions and reporting requirements.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

1) **Purpose of the Bill**: According to the author:

> Special elections in California are notorious for having abysmal voter turnout levels. In fact, the average registered turnout of the 13 deciding special elections since January 2013 is 14.07%. In some of those special elections, that statistic even drops below 10%.

> This alarmingly low turnout level can be attributed to the fact that special elections often cover fewer issues and are generally less competitive than statewide general elections. As a result, special elections generate less media coverage and do not adequately capture voter attention, which can intensify low turnout.

> Vote-by-mail voters have cast as much as 80% of the ballots in special elections this decade as Election Day voter participation in these contests has dropped significantly. In fact, vote-by-mail voters have demonstrated that they are up to 5 times more likely to participate in a special election than voters who do not receive their ballot in the mail.

> In San Diego County alone, the Secretary of State reported that the percentage of vote-by-mail voters was over 4% higher than the statewide average for the 2014 General Election. This may suggest that San Diego County's voting behavior and demographics lend themselves to special elections conducted predominantly by mail.

What is more, academic studies have examined the use of mail balloting in special elections favorably. One California study conducted in 2007 found that a vote-by-mail system increased turnout by 8% in special elections. Similar increases in special elections turnout have even been found in Oregon, California charter cities and California counties which have used mail balloting.

Likewise, a 2010 study published in the Social Science Journal found that vote-by-mail systems significantly increased the voter turnout rate of ethnic minorities such as Latinos and African Americans.

Furthermore, pilot projects have found significant cost savings and reported no voter fraud issues in conducting special elections by mail. Yolo County reported as much as 43% cost-savings in 2013 with a predominately vote-by-mail format.

Severely low voter turnout in California's costly special elections is causing large portions of California's electorate to be underrepresented in deciding the outcome of all statewide races and ballots, which directly undercuts our principles of democracy and participation in a fiscally detrimental manner.

Full voter participation produces governments with more stability, legitimacy and a genuine mandate to govern while making it more difficult for extremist or special interest groups to win elections or to influence mainstream candidates.

AB 547 would strive to increase voter turnout and cut costs in San Diego County's special elections by extending to other political subdivisions in the county the option to conduct all-mailed ballot special elections under the AB 1873 pilot program to cities, counties, school districts, special districts and local ballot initiatives.

2) **Existing All-Mailed Ballot Pilot Projects**: Last year, the Legislature approved and the Governor signed AB 1873 (Gonzalez and Mullin), Chapter 598, Statutes of 2014, which allows special elections in San Diego County to fill vacancies in the Legislature and Congress to be conducted by mailed ballot until 2020, subject to certain conditions. This bill modifies some of those conditions, and significantly expands the types of elections that are allowed to be conducted as mailed ballot elections pursuant to the pilot project.

In addition to the San Diego pilot project that was authorized by AB 1873, there is another ongoing pilot project authorized by the Legislature and the Governor to examine the use of all-mailed ballot elections for local elections. That pilot project was originally authorized by AB 413 (Yamada), Chapter 187, Statutes of 2011, which allows Yolo County to conduct local elections on not more than three dates as all-mailed ballot elections. AB 413 was intended to serve as a pilot project to evaluate the desirability of further expanding the circumstances under which elections are permitted to be conducted as all-mailed ballot elections. Yolo County conducted all-mailed ballot elections in March 2013 in the City of Davis and the Washington Unified School District as permitted by AB 413, and submitted its report on those elections in December 2013. Yolo County is permitted to conduct local elections as all-mailed ballot elections on two additional dates before the conclusion of the

pilot project.

Last year, the Legislature approved and the Governor signed AB 2028 (Mullin), Chapter 209, Statutes of 2014, which allowed San Mateo County to join Yolo County in participating in that ongoing pilot project. Part of the author's rationale for introducing AB 2028 was to expand the pilot program to gather more data, and to get information from an urban county "to contrast the rural county [Yolo] that is already part of the program." San Mateo County has not yet conducted an election as part of the all-mailed ballot pilot program that was expanded by AB 2028. (San Mateo County conducted an all-mailed ballot election on May 5, 2015, for a parcel tax measure in the San Carlos School District, but that election was conducted as an all-mailed ballot election pursuant to other provisions of existing law, and not as part of the pilot project authorized by AB 2028.)

When the Legislature considered AB 1873 last year, early versions of the bill would have expanded the circumstances under which local elections could be conducted as all-mailed ballot elections. However, AB 1873 was narrowed, and ultimately authorized a pilot project in San Diego County regarding the use of all-mailed ballot elections for legislative and congressional vacancy elections. The chaptered version of AB 1873 did not allow local elections to be conducted as mailed ballot elections as part of that pilot project.

Given the fact that an ongoing all-mail ballot election pilot project for local elections was only recently expanded to include an additional county, and given the fact that only one set of elections have been held under the pilot project, the committee may wish to consider whether it is warranted to further expand the circumstances under which local elections may be conducted as all-mail ballot elections. On the other hand, the San Diego pilot project includes a number of accessibility, outreach, and voter education requirements that exceed those included in the San Mateo and Yolo pilot project. In light of that fact, allowing local elections to be included as part of the San Diego pilot project may provide additional information about how the differing accessibility, outreach, and voter education requirements affect turnout at all-mail ballot elections.

3) **Special Vacancy Elections in Multiple Counties**: One of the requirements in AB 1873 for conducting an election as an all-mailed ballot election was that the congressional or legislative district for which the election was being held had to be located entirely within San Diego County. That condition ensured that all voters within a given district would be voting in accordance with the same rules and procedures. Without that condition, if there was a vacancy in a legislative or congressional district that included part of San Diego County, but that also included portions of one or more other counties, and if San Diego County decided to conduct the special election to fill that vacancy as a mailed ballot election, some voters within the district would vote using the mailed ballot method authorized by the San Diego pilot project, while the remaining voters in the district would vote using a traditional polling place-model election.

This bill would repeal the requirement that a congressional or legislative district must be entirely within San Diego County in order for a special vacancy election to be eligible to be conducted under the pilot project. Furthermore, this bill allows specified elections for local office, as detailed above, to be conducted under the pilot project even where those elections

also include territory outside of San Diego County. If a special election were held under this pilot project in a district that included territory outside of San Diego County, only the election in the San Diego County-portion of the district would be conducted as a mailed ballot election. The committee may wish to consider whether this disparate treatment of voters within the same district is appropriate.

4) **Local Ballot Measure Elections and Clarifying Amendment**: As detailed above, this bill would expand existing law to allow a school district, special district, or small city, as defined, to conduct a local ballot measure election as an all-mail ballot election. This provision is not limited to jurisdictions that are located wholly or partially in San Diego County, and elections conducted pursuant to this provision would not be subject to the accessibility, outreach, voter education, and reporting requirements that apply to elections conducted pursuant to the San Diego County pilot project. According to the author, it is not her intent for this bill to affect elections other than those that would be conducted as part of the pilot project in San Diego County. To reflect this intent, committee staff recommends the following amendment to this bill:

On page 9, strike out lines 6 to 34, inclusive.

Disability Rights California, which had opposed a prior version of this bill, has indicated that they will remove their opposition and will be neutral on this bill with this amendment.

5) **Related Legislation**: AB 1504 (Alejo), which is also being heard in this committee today, authorizes Monterey and Sacramento counties to participate in an ongoing pilot project that allows certain elections to be conducted entirely by mailed ballot, and extends that pilot project by two years.

REGISTERED SUPPORT / OPPOSITION:

Support

County of San Diego (sponsor) (prior version)
Urban Counties Caucus (prior version)

Opposition

Disability Rights California (prior version)

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