

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON ELECTIONS

Gail Pellerin, Chair

SB 1450 (Allen) – As Amended April 9, 2024

**SENATE VOTE:** 32-0

**SUBJECT:** Elections

**SUMMARY:** Makes various changes to the California Voter's Choice Act (VCA). Specifically, **this bill:**

- 1) Makes the following changes to counties that are conducting their elections pursuant to the VCA:
  - a) Requires each vote center to post information regarding the availability of language assistance services provided by the Secretary of State (SOS), including a language assistance hotline.
  - b) Requires each county to establish a voter education and outreach advisory committee (VEOAC) that is comprised of voter engagement, education, and community outreach advocates, as specified.
  - c) Requires the county's language accessibility advisory committee (LAAC), voting accessibility advisory committee (VAAC), and VEOAC to hold their first meetings before the county elections official holds required meetings on the development of a draft election administration plan with stakeholders of the communities represented on those committees.
  - d) Permits a county with fewer than 50,000 registered voters to establish a joint advisory committee for language minority communities, voters with disabilities, and voter education and outreach advocates.
  - e) Requires the county elections official to hold one public meeting on the development of a draft election administration plan that includes experts on voter education and outreach, as specified.
  - f) Requires a county elections official to adopt a final election administration plan no later than 180 days before an election conducted using the VCA model.
  - g) Modifies existing requirements that county elections officials make at least two direct contacts informing voters of an upcoming election that will be conducted using the VCA, and instead requires at least two direct contacts with voters during the first eight elections conducted by the VCA model, and requires at least one direct contact thereafter.

- h) Provides that if two or more registered voters have the same surname and the same postal address, only one copy of each direct contact may be mailed to that postal address.
  - i) Allows county elections officials to make just one direct contact with voters for an election that is conducted either in a jurisdiction with fewer than 30,000 registered voters, or if a special election is conducted within 30 days of a regularly scheduled statewide election, as specified.
  - j) Specifies that a report that the SOS is required to submit to the Legislature within six months of each election conducted pursuant to the VCA must be a *final* report, and deletes language that specifies that certain report information must be provided only to the extent possible.
  - k) Establishes a deadline of six months after each election conducted by the VCA model for a county elections official to post a required report on the costs of the election on their website, as specified.
  - l) Requires the SOS to establish a taskforce to review elections conducted pursuant to the VCA and provide comments and recommendations to the Legislature within six months of each election, as specified. Requires the task force to include representatives of all of the following:
    - i) County elections officials.
    - ii) Individuals with demonstrated language accessibility experience for languages covered under the federal Voting Rights Act of 1965.
    - iii) The disability community and community organizations and individuals that advocate on behalf of, or provide services to, individuals with disabilities.
    - iv) Experts with demonstrated experience in the field of elections.
- 2) Makes various clarifying, conforming, and technical changes.

**EXISTING LAW** authorizes any county, pursuant to the VCA, to conduct elections in which every registered voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions. Provides a number of planning and outreach requirements for counties adopting and conducting elections pursuant to the VCA, as specified. (Elections Code §4005)

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- The SOS indicates that it would require three positions to perform the workload required by this bill, resulting in first-year costs of \$459,000, and \$444,000 annually thereafter (General Fund). In addition, SOS would incur annual costs of \$200,000 to complete the post-election reports and related activity.

- This bill would result in reduced mailing costs. Specifically, it would require mailings be sent to each household, rather than to every registered voter, as specified. The magnitude of the savings could potentially reach the millions of dollars per election.
- By making specified changes to the way in which counties conduct elections, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude is unknown, would likely be, at a minimum, in the millions of dollars annually.

#### COMMENTS:

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

The Voter's Choice Act (VCA), created by the passage of SB 450 (Allen, Chapter 832, Statutes of 2016), offered counties a new way to conduct elections that increases access and convenience for voters. Under the VCA, counties can choose to switch from traditional neighborhood polling places to a vote center model that offers ten days of early voting, vote-by-mail for all voters, same-day voter registration, accessible voting machines for voters with disabilities, additional language support services, and the ability for voters to vote at any location in the county.

A 2023 report published by the Center for Inclusive Democracy noted that, while turnout gaps still exist, there are beneficial aspects of the VCA including increased transparency, accountability, and community engagement with election planning. Additionally, there are fewer reported Election Day problems at vote centers, more access to bilingual poll workers, and more voting machines for voters with disabilities. However, a Senate Committee on Elections and Constitutional Amendments informational hearing reviewing VCA implementation revealed potential improvements to reduce costs for county elections officials and enhance voter outreach strategies.

SB 1450 proposes changes to streamline administration and reduce costs of conducting elections under the VCA. The bill will require mailings to be sent to each household, rather than to every registered voter, and addresses situations where irregularly scheduled special elections and overlapping special districts result in duplicative and potentially confusing informational mailers. To improve election management, the bill also establishes a deadline for counties to finalize election administration plans and requires advisory committees to provide expertise on voter education and community outreach strategies. SB 1450 will maintain vital voter accessibility provisions while reducing costs and administrative barriers for counties to more efficiently and effectively conduct elections under the VCA model.

2) **Voter's Choice Act and Previous Legislation:** In 2016, the Legislature passed and Governor Brown signed SB 450 (Allen), Chapter 832, Statutes of 2016, which established

the VCA and provided a new model for counties to administer elections. This election model was based off of a Colorado election model where every registered voter is mailed a ballot and may visit any voting location, known as a vote center, within the voter's county prior to and on Election Day to vote or seek assistance with voting.

The VCA requires counties to mail a ballot to all active registered voters and replaced polling places with vote centers and ballot drop-off locations. For regularly scheduled elections, one vote center is required for every 50,000 registered voters open from the 10th day to the 4th day prior to the election, and one vote center for every 10,000 registered voters from the 3rd day prior to the election through election day, with no fewer than two vote centers. Voters could visit any vote center in the voter's county to return their ballot, register to vote, and vote. Vote centers are required to be accessible to voters with disabilities and provide language assistance in a way consistent with current state and federal law. Additionally, a VCA county is required to provide a ballot drop-off locations for every 15,000 registered voters and make them available from the 28th day before the election through election day.

Additionally, SB 450 required the SOS to establish a VCA taskforce to review elections conducted via the VCA model and provide comments and recommendations to the Legislature within six months of each election. The VCA taskforce sunset January 2022.

- 3) **Counties under the VCA:** Following the enactment of SB 450, five counties elected to change their election model to the VCA for the 2018 elections. In 2020, 10 counties made the switch and in 2022, 12 more counties opted to conduct their elections using the VCA model. For the March 5, 2024 statewide presidential primary, 29 counties conducted their elections using the VCA model.

According to data from the SOS's Report of Registration, as of February 20, 2024, there were 26,638,018 eligible voters with 22,077,333 registered voters in California. There were 20,583,056 eligible voters with 17,236,233 registered voters in counties using the VCA as an election model. This equates to 77.27 percent of California's eligible voters and 78.07 percent of registered voters.

- 4) **Election Administration Plans:** When determining the placement of vote centers and VBM drop-off locations, county elections officials are required to develop a plan for election administration under the VCA. When developing the draft election administration plan, elections officials are required to consider, at a minimum, all of the following: vote center and ballot drop-off location proximity to public transportation, to communities with historically low VBM usage, to population centers, to language minority communities, to voters with disabilities, to communities with low rates of household vehicle ownership, to low-income communities, to communities of eligible voters who are not registered to vote and may need access to same day voter registration, and to geographically isolated populations.

Additionally, elections officials are required to consider access to accessible and free parking at vote centers and ballot drop-off locations, the distance and time a voter must travel by car or public transportation to a vote center and ballot drop-off location, traffic patterns near vote centers and ballot drop-off locations, the need for alternate methods for voters with

disabilities for whom VBM ballots are not accessible to cast a ballot, the need for mobile vote centers in addition to the number of vote centers established pursuant to the VCA, and vote center locations on a public or private university or college campus.

These election administration plans are also drafted in consultation with the public through meetings publicly noticed in advance of the meeting. One meeting is required to include representatives, advocates, and other stakeholders representing each community for which the county is required to provide voting materials and assistance in a language other than English. Another meeting is required to include representatives from the disability community and community organizations and individuals that advocate on behalf of, or provide services to, individuals with disabilities. Both meetings need to be publicly noticed at least 10 days in advance of the meeting.

This bill requires a county elections official to additionally hold one public meeting that includes experts on voter education and outreach.

- 5) **Outreach Efforts:** Counties conducting their elections using the VCA model are required to create two outreach committees, a LAAC and a VAAC, to provide an elections official with input and feedback when developing election administration plans. A local LAAC is comprised of representatives of language minority communities and a local VAAC is comprised of voters with disabilities. This is similar to the statewide LAAC and VAAC.

San Mateo County was one of the first counties to conduct elections using the VCA model. In 2018, San Mateo County created a VEOAC which advises and assists the San Mateo County elections official on matters relating to education and outreach. A VCA county is not required to create a VEOAC. The VEOAC provides expertise and advice on voter education and outreach issues, gathers feedback from local communities, proposes recommendations on how to better assist voters, and monitors new laws and regulations on elections voter education and outreach issues.

This bill requires the county elections official in a county that is conducting elections pursuant to the VCA to establish a VEOAC that is comprised of voter engagement, education, and community outreach advocates.

- 6) **VCA Reports:** Within six months of each election, the SOS is required report to the Legislature, to the extent possible, all of the following information in specified categories: voter turnout, voter registration, ballot rejection rates, reasons for ballot rejection, provisional ballot use, accessible VBM ballot use, the number of votes cast at each vote center, the number of ballots returned at ballot drop-off locations, the number of ballots returned by mail, the number of persons who registered to vote at a vote center, instances of voter fraud, and any other problems that became known to the county elections official or the SOS during the election or canvass. The report is required to be posted on the SOS's website in a format accessible for people with disabilities.

The reports seek to provide information in order to improve aspects of election administration using the VCA in a timely manner. However, the March 3, 2020 Primary Election and the November 3, 2020 General Election reports were received on May 6, 2022.

This was approximately 26 months following the March 2020 primary election and approximately 18 months following the November 2020 general election.

The initial reports from the 2021 gubernatorial recall election, the 2022 primary election, and the 2022 general election were received in June 2023. A supplemental report with additional data for the 2021 gubernatorial recall election and the 2022 primary election were received in November 2023. For the 2021 gubernatorial recall election, this was approximately two years from that election. For the 2022 primary election, this was approximately 17 months from that election. The SOS has not posted the supplemental report for the 2022 general election.

This bill specifies that a final report is required to be submitted by the SOS to the Legislature within six months of each election conducted pursuant to the VCA. Notwithstanding the value to various stakeholders, the Legislature, and the public to having these VCA reports completed and submitted in a timelier manner, it is unclear whether the six month timeline envisioned by this bill is realistic in light of the prior delays in completing and submitting those reports. As of the time that this analysis was prepared, the office of the SOS had not taken a position on this bill or provided feedback on whether it will be able to comply with this bill's requirements.

7) **VCA Analysis:** A 2023 report entitled, "The Voters Choice Act, Impact Analysis and Recommendations," examined the impact of the VCA on California's voter participation gap and explored how the VCA could be used to increase voter turnout. The project was sponsored by the Evelyn and Walter Haas, Jr. Fund and the Silicon Valley Community Foundation. According to the report, a participation gap exists across elections in both VCA and non-VCA counties (traditional polling place counties). For example, the report shows that eligible voter turnout gaps between Latino and Asian American voters and the general voter population were slightly wider in VCA counties when compared to non-VCA counties in the 2022 general election. The report notes that this is in contrast to turnout increases in the first five VCA counties in the 2018 elections and the 2020 elections. While the report did not provide a rationale for why this participation gap continues to exist, the report made various recommendations for statewide leadership and counties. Notable statewide recommendations include:

- The SOS and the Legislature should work together to secure more funding in the Governor's 2024 budget for voter outreach and education and to ensure robust election administration planning and implementation.
- The SOS should revive the VCA Taskforce that was allowed to sunset on January 1, 2022. The re-establishment of the VCA Taskforce would be the best avenue for the SOS to intentionally and formally convene elections officials, voter engagement experts, and legislative stakeholders. The Taskforce would play an important role in reviewing VCA election planning, spending, and outreach efforts, and in formally reporting their analysis – and suggestions for how gaps can be narrowed – to the Legislature.
- The Legislature should turn a closer eye to the voter participation crisis, including a joint elections committee informational hearing to review the SOS's 2022 VCA election reports and other reports and research from the elections field that could inform

recommendations for elections funding in the Governor's 2024 budget, as well as steps the Legislature might take in the future to address participation gaps.

This bill requires the SOS to establish a VCA taskforce to review elections conducted pursuant to the VCA and provide comments and recommendations to the Legislature within six months of each election, as specified.

- 8) **Senate Oversight Hearing on VCA:** Last December, the Senate Elections & Constitutional Amendments Committee held an oversight hearing on the VCA. The hearing's goal was to learn what is working, what could be improved, and how to move forward. The committee heard from the SOS's office, county election officials, community organizations, and the Center for Inclusive Democracy on all aspects of the VCA. Topics discussed ranged from the roles of each entity under the VCA, early voting time periods, reviving the VCA taskforce, and outreach operations.
- 9) **Amendments Sought:** The coalition of organizations listed below as having a "support if amended" position suggests the following amendments to this bill:

**Findings and Purposes:** We recommend adding a findings and purposes section to the Voters Choice Act to highlight that part of the purpose of the legislation is to address disparities in voter accessibility and participation, and to urge California's Secretary of State and county election officials to focus voter education and outreach on the goals of decreasing voter registration and participation gaps and improving awareness of voting opportunities among underrepresented voter groups.

**Secretary of State Taskforce:** We suggest adding language to specifically reference taskforce responsibilities to review county Election Administration Plans (EAPs), with particular emphasis on the requirement that counties provide "a description of how the county elections official will address significant disparities in voter accessibility and participation identified in the [Secretary of State's] report.

**Language Access:** Because some counties may provide their own hotline and other language services, we recommend the information posted include both the SOS and county services, including the availability of American Sign Language services. The Voters Choice Act requires counties to provide notice in the voter guide, in vote by mail materials, and on their website of the specific language services available at each vote center. We recommend an amendment to require that the language assistance hotline that the SOS provides during elections be advertised in these same places. A county should also advertise their own hotline in these places if it exists.

**Public Consultation Meetings:** There should be a requirement for a minimum number of meetings per year for the VAAC, LAAC and the proposed Voter Education and Outreach Advisory Committee (VEOAC). We suggest quarterly meetings as the floor. We have often seen counties going up to a year or more

without holding a meeting.

**Voter Education and Outreach Advisory Committee (VEOAC):** We recommend more expansive wording as to who should join the VEOAC similar to the VAAC and LAAC provisions. The VEOAC does not need to be limited to "experts." It is important to include Community Based Organizations that have strong relationships with and deep familiarity with the needs of underrepresented communities, are trusted messengers, and can provide culturally competent voter education and outreach advice to the elections office.

10) **Previous Legislation:** AB 37 (Berman), Chapter 312, Statutes of 2021, requires county elections officials to mail a ballot to every active registered voter for all elections. Additionally, AB 37 requires a county that does not conduct an election pursuant to the VCA to provide at least two VBM ballot drop-off locations within the jurisdiction where the election is held or at least one VBM ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more VBM ballot drop-off locations, unless certain conditions are met.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

ACLU California Action (if amended)

Asian Americans Advancing Justice - Asian Law Caucus (if amended)

California Common Cause (if amended)

Disability Rights California (if amended)

League of Women Voters of California (if amended)

Inland Empire United (if amended)

National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund (if amended)

##### **Opposition**

None on file.

**Analysis Prepared by:** Nichole Becker / ELECTIONS / (916) 319-2094