

Date of Hearing: May 13, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Sebastian Ridley-Thomas, Chair

AB 1504 (Alejo) – As Amended April 20, 2015

SUBJECT: Elections: all-mailed ballot elections: pilot project.

SUMMARY: 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. Specifically, **this bill**:

- 1) Allows Monterey and Sacramento counties to join a pilot program currently underway in San Mateo and Yolo counties, under which the participating counties are permitted to conduct all-mailed ballot elections on up to three different dates, subject to certain conditions and reporting requirements.
- 2) Extends the end of the pilot project from January 1, 2018 to January 1, 2020.
- 3) Makes corresponding and technical changes.

EXISTING LAW:

- 1) Allows elections held on no more than three different dates in San Mateo and Yolo counties to be conducted wholly by mail, as part of a pilot project lasting through January 1, 2018, subject to the following conditions:
 - a) The governing body of the city, county, or district, by resolution, authorizes the all-mailed ballot election and notifies the Secretary of State (SOS) of its intent to conduct an all-mailed ballot election at least 88 days prior to the date of the election;
 - 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 as an all-mailed ballot election, and is not a special election to fill a vacancy in a state office, the Legislature, or Congress;
 - c) At least one ballot dropoff location is provided in each city within the jurisdiction or ballot dropoff locations are fixed in a manner so that the number of residents for each ballot dropoff location does not exceed 100,000 on the 88th day prior to the election, whichever results in more dropoff locations. Requires dropoff locations to be open during business hours to receive voted ballots beginning 28 days before the date of the election and until 8 p.m. on the day of the election;
 - d) At least one polling place is provided per city where voters can request a ballot between 7 a.m. and 8 p.m. on the day of the election if they need a replacement ballot;
 - e) The elections official delivers to each voter all supplies necessary for the use and return of the mail ballot, including an envelope for the return of the voted mail ballot with

postage prepaid;

- f) The elections official posts on the Web site of the county elections office and delivers to each voter, with either the sample ballot or with the voter's ballot, a list of the ballot dropoff locations and polling places provided; and,
 - g) The polling places provided are at accessible locations and are equipped with voting units or systems that are accessible to individuals with disabilities.
- 2) Requires, if San Mateo or Yolo County conducts an all-mailed ballot election pursuant to the pilot project described above, that the county report to the Legislature and to the SOS regarding the success of the election. Requires the report to include, but not be limited to, statistics on the cost to conduct the election; the turnout of different populations, including, but not limited to, the population categories of race, ethnicity, age, gender, disability, permanent vote by mail (VBM) status, and political party affiliation, to the extent possible; the number of ballots that were not counted and the reasons why 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 success of the all-mailed ballot election to similar elections not conducted wholly by mail in the same jurisdiction. Requires the report to be submitted to the Legislature within six months after the date of an all-mailed ballot election or prior to the date of any other all-mailed ballot election conducted pursuant to the pilot project, whichever is sooner.
- 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 city with a population of 100,000 or less or a school district to conduct any special election held to fill a vacancy as an all-mailed ballot election.
- 5) Authorizes a district to conduct any election as an all-mailed ballot election on any date other than an established election date.

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

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

This bill seeks to modestly expand the current pilot program allowing for all mail elections by adding Monterey County and Sacramento County to the list of participating counties and extending the sunset by 2 years. This will allow for additional information to be collected about the impact of all mail elections, particularly in more rural counties where polling places tend to be more spread out and difficult to access and urban counties where voters face different challenges. Currently, only one urban county (San Mateo County) and one rural county (Yolo County) are allow[ed] to participate under the existing pilot program which is scheduled to sunset in 2018.

In recent years, the percentage of California voters who cast mail-in ballots has increased dramatically, and it is especially significant in special elections. In recent elections, more than 80% of voters cast their ballots by mail in some cases. Given the record low 18.3% voter turnout in that recent 2014 statewide primary election, the lowest since 1946, California is facing a democracy crisis when it comes to the civic participation of [its] voters and all mail elections offer an opportunity to turn that around.

University of California San Diego research indicates that when special elections are conducted by mail, turnout levels increase by close to eight percentage points in California. An increase of this magnitude could mean nearly doubling turnout rates in some jurisdictions. In addition, the policy has the potential to save taxpayer dollars because mail-ballot elections typically cost significantly less than traditional polling place elections which includes staffing expenses.

In the early 1990s, California embarked on an all-mail special election pilot project. That particular project was conducted in Stanislaus County, and the results indicated increase in turnout from 7% below the statewide average to 7% above. In addition, the county spent half as much money administering the election as it did during traditional polling place elections. However, the pilot was not extended, nor was the policy adopted statewide.

Nearly two decades later, in 2011, the Legislature authorized another pilot project in a rural county, again with the intention of examining the turnout effects of vote-by-mail elections. The project only applied to one rural county, and the number of mail-in elections dates is capped at three. Prior elections were conducted on one out of the three total permissible election dates, and a subsequent election report demonstrated no significant increase or decrease in turnout, including when turnout levels were broken down by ethnicity. The report did, however, indicate a total cost-savings of about 43%. In the end, it called for more data on all-mail elections in California. In addition, more data is also needed to gauge the impact of SB 29 (Correa) which allows [VBM] ballots to be accepted

and counted even if they arrive at a county election headquarters up to three days after Election Day.

Last year the Legislature added San Mateo County to the pilot program, but the program should be expanded even more to gather more data. In doing so, more counties should be included to add to the data collected from the rural and urban counties of Yolo and San Mateo that are already part of the program. Monterey County and Sacramento County are great candidates as rural and urban counties, respectively. Monterey County even had temporary authorization conduct all-mail elections for a two-year period from 2002 to 2003, so there is already experience and infrastructure for all-mail elections. By adding Monterey County and Sacramento County to the current pilot, AB 1504 proposes a minor expansion of the program.

- 2) **Vote By Mail and Permanent Vote By Mail Voting:** Under state law, any voter can request a VBM ballot for any election, and any voter can become a permanent VBM voter. Permanent VBM voters automatically receive a ballot in the mail for every election, without the need to re-apply for a VBM ballot. As such, any voter who prefers to receive a ballot by mail has the ability to do so under existing law.

Among the arguments that supporters of all-mailed ballot elections frequently make in support of such elections is that all-mailed ballot elections are more convenient for voters. However, it is not clear whether this is the case. Any voter who finds it more convenient to vote by mail has the option to do so under existing law, and voters who want to vote by mail at every election can sign up for permanent VBM status. Some voters, due to physical disability or language issues, may prefer to vote at the polls in order to take advantage of access or help provided by electronic voting machines or bilingual poll workers.

- 3) **Prior All-Mailed Ballot Election Pilot Project in Monterey County:** AB 319 (Salinas), Chapter 385, Statutes of 2001, allowed Monterey County to conduct any election within the county as an all-mailed ballot election, provided that the election did not contain a state or federal office. AB 319 specified that it was to serve as a pilot project for mailed ballot elections, and required Monterey County to report to the Legislature and the SOS regarding the success of the election, including, but not limited to, any statistics on the increase of voter fraud. The pilot project ended on December 31, 2005. AB 591 (Salinas) of 2005 sought to extend the pilot project until December 31, 2008, but that bill failed after never being heard in the Senate Elections, Reapportionment, and Constitutional Amendments Committee.

Unfortunately, the report filed by Monterey County as part of the pilot project was cursory, and less than one page long, and therefore lacked information necessary to evaluate the pilot project. Although the report concluded that the mailed ballot elections conducted under the pilot project had increased turnout, decreased costs, and did not result in voter fraud, the report lacked the detail necessary to assess these claims. Furthermore, the report failed to disclose an incident in which approximately 200 registered voters in the Castroville area of the County did not receive a ballot until after election day for one of the elections held under the pilot project.

Given that Monterey County already participated in a pilot project for all-mailed ballot elections, and given the less-than-thorough report that was provided to the Legislature at the conclusion of that pilot project, the committee may wish to consider whether Monterey County is a suitable jurisdiction for conducting further study on the issue of all-mailed ballot elections.

- 4) **San Mateo and Yolo County Pilot Project:** In 2011, the Legislature approved and the Governor signed AB 413 (Yamada), Chapter 187, Statutes of 2011, which created a pilot program allowing 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.

The report prepared in connection with the first two elections conducted in Yolo County under the pilot project found that turnout at the all-mailed ballot elections conducted as part of the pilot project was not significantly different than similar polling place elections held in the two jurisdictions in prior years. The study also found that turnout rates broken down by age, ethnic background, party preference, and permanent VBM status was consistent and similar between the polling place and the all-mailed ballot elections. The study found that data provided on the cost to conduct all-mailed ballot elections was inconclusive in determining whether there are significant savings to moving to all-mailed ballot elections. However, the study also cautioned that Davis—one of the jurisdictions in which the pilot was conducted—"is a relatively affluent, homogenous community with a higher level of educational achievement than most other areas of the state" and so the results "are not necessarily applicable to other, dissimilar communities." The report also noted that the effects of all-mailed ballot elections on turnout would not necessarily be similar in general elections. 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 the 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.)

Given the fact that the all-mail ballot election pilot project 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 all-mail ballot election pilot program and to extend the end of that pilot program before receiving additional information from those jurisdictions that already are permitted to

participate in the pilot project.

5) **Arguments in Support:** In support of this bill, the Urban Counties Caucus writes:

Under existing law, the counties of San Mateo and Yolo are allowed to conduct certain special elections to fill a vacancy by mail. AB 1504 would allow Monterey and Sacramento counties to be included in this pilot project.

In recent years, counties have conducted numerous special elections to fill a vacancy in Congress, State Senate, and Assembly which is very costly and results in low voter turnout. In 2013, counties conducted eight special elections due to a vacancy in the State Assembly and State Senate. In Los Angeles County alone the cost to conduct special elections in 2013 was approximately \$6.2 million. These elections require counties to have polling places and staff throughout the county open for 12 hours, when often only a few voters show up to the polls. In California, the permanent absentee rolls continue to grow and many voters choose to vote by mail.

This bill would expand the pilot project to Monterey and Sacramento counties, which would provide more data and information to the Legislature regarding this proposed change in election procedures. Conducting elections by all-mail ballot would provide a significant cost savings as well as be more convenient for voters.

6) **Related Legislation:** AB 547 (Gonzalez), which is also being heard in this committee today, 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, among other provisions.

7) **Previous Legislation:** AB 1873 (Gonzalez and Mullin), Chapter 598, Statutes of 2014, 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.

SB 304 (Kehoe) of 2011 would have authorized elections in San Diego County to be conducted wholly by mail until January 1, 2016, if specified conditions were satisfied. SB 304 was never heard in committee.

SB 1102 (Liu) of 2010 would have permitted a special primary or run-off election to fill a legislative or congressional vacancy to be conducted wholly by mail provided that the board of supervisors of each county within the affected jurisdiction authorized the all-mail ballot election. SB 1102 was never brought up for vote on the Senate Floor.

AB 1681 (Yamada) of 2010 was similar to AB 413. AB 1681 was vetoed by Governor Schwarzenegger, who expressed concern that "with limited options to vote in-person citizens—especially poor, elderly, and disabled voters—would not have sufficient opportunity to vote."

AB 1228 (Yamada) of 2009 was similar to AB 1681, except that AB 1228 would have

allowed both Yolo and Santa Clara Counties to participate in the all-mail ballot pilot project. AB 1228 was vetoed by Governor Schwarzenegger for the same reasons stated in his veto message of AB 1681 above.

REGISTERED SUPPORT / OPPOSITION:

Support

Sacramento County Board of Supervisors
Urban Counties Caucus

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094