

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 363 (Gonzalez) – As Amended March 19, 2019

**SUBJECT:** Elections: vote by mail ballots.

**SUMMARY:** Requires a county elections official to provide one early voting location for every 10,000 registered voters for the three days prior to each election, as specified. Specifically, **this bill** requires a local elections official, for every 10,000 registered voters within the jurisdiction where the election is held as determined on the 88th day before the election, to provide for at least one satellite location to be open, for a minimum of eight hours per day, on the Saturday, Sunday, and Monday preceding the election, where a voter may cast a ballot in person. Provides that these provisions do not apply to jurisdictions conducting an all-mailed ballot election.

**EXISTING LAW:**

- 1) Permits any registered voter to apply for and receive a vote by mail (VBM) ballot.
- 2) Allows a voter, prior to the close of the polls on election day, to vote a VBM ballot in person at the office of the elections official.
- 3) Permits a local elections official to allow a voter to vote in person at a satellite office prior to the close of the polls on election day.
- 4) Authorizes any county to conduct any election, on or after January 1, 2020, as an all-mailed ballot election if certain conditions are met, including conditions related to ballot dropoff locations, vote centers, and plans for the administration of all-mailed ballot elections.
- 5) Authorizes a person who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day, as specified.
- 6) Requires county elections officials to offer conditional voter registration and provisional voting at their permanent offices, and permits them to offer this type of registration and voting at satellite offices on election day and other days preceding election day.
- 7) Provides that at all elections, a voter claiming to be properly registered to vote, but whose qualifications to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, is entitled to vote a provisional ballot.

**FISCAL EFFECT:** Unknown. State-mandated local program; contains reimbursement direction.

**COMMENTS:**

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

Voting is an essential component of democracy. Absent full participation, the candidates elected and decisions being made are never going to truly reflect the needs, wants, and backgrounds of regular Californians.

AB 363 would help expand access to the ballot box for Californians by providing voters an option to vote in person at a location within their community during the Saturday, Sunday and Monday leading up to Election Day.

This flexibility is critical for voters such as working parents or students who may face difficulty making time to vote within a 13-hour window on a Tuesday. A Pew Research Center study of the 2016 election found that one of the top reasons cited by nonvoters was that they were “too busy” or had a “conflicting schedule”. People are often unable to cast a ballot on Tuesday because they can’t get the time off from work, don’t have childcare, or they don’t have the time to wait in long lines at the polls.

While counties do offer early voting at Registrar of Voters offices, these can be difficult to access and may have constricting hours in which they are open.

We have seen promising success in counties that opted to use the Voter’s Choice Act vote center model of elections, which offers voters not only a mail ballot but also options to vote in person at locations within their community up to 10 days before the election. However, it is unfair to create disparities in access to the ballot for voters not in participating counties.

AB 363 will expand a proven tool for improving voter’s experience statewide, and provide an opportunity for increased voter turnout.

2) **California Voters Choice Act:** In 2016, the Legislature passed and the Governor signed SB 450, Chapter 832, Statutes of 2016, which enacted the California Voter's Choice Act (CVCA), which permits fourteen specified counties, starting last year, to conduct elections in which all voters are mailed ballots, and voters have the opportunity to vote on those ballots or to vote in person at a vote center for a period of 10 days leading up to election day. Remaining counties can start using this method of elections in 2020.

Specifically, the CVCA requires, for regularly scheduled elections, one vote center for every 50,000 registered voters 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. Additionally, for special elections, current law requires one vote center for every 60,000 registered voters from the 10th day to the day prior to the election, and one vote center for every 30,000 registered voters on election day, as specified.

The CVCA permits Los Angeles County, beginning January 1, 2020, to conduct elections subject to the same conditions that are generally applicable above, except that the county is not required to mail a ballot to every voter and the county must provide, for regularly scheduled elections, one vote center for every 30,000 registered voters from the 10th day to the 4th day prior to the election, and one vote center for every 7,500 registered voters from the 3rd day prior to the election through election day. Additionally, Los Angeles County is required to provide at least one vote center in each city that has at least 1,000 registered voters, as specified.

Additionally, current law requires vote centers to be open for specified minimum hours of operation and requires that a voter be able to return their VBM ballot, register to vote or update voter registration, receive and vote a provisional ballot, receive a replacement ballot, or vote using accessible voting equipment at a vote center. Additionally, existing law requires a vote center to be accessible to voters with disabilities and provide language assistance consistent with current state and federal law.

Five counties (Madera, Napa, Nevada, Sacramento, and San Mateo) all conducted elections under this system last year; the remaining counties may use this system beginning in 2020. According to the SOS, the following counties will be conducting elections next year using this system: Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, and San Mateo. Other counties may still choose to join the list of counties conducting elections pursuant to the CVCA in 2020.

- 3) **Conditional Voter Registration and Previous Legislation:** In 2012, the Legislature approved and Governor signed AB 1436 (Feuer), Chapter 497, Statutes of 2012, which established conditional voter registration, also known as "same-day" registration, in California. Specifically, current law authorizes a person who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot at the elections official's permanent office during the 14 days immediately preceding an election or on election day. After receiving a conditional voter registration, current law requires an elections official to determine the registrant's eligibility to register to vote and validate the information, as specified. If the conditional voter registration is deemed effective, the registrant's provisional ballot is included in the official canvass. Conditional voter registration went into effect on January 1, 2017, after the SOS certified VoteCal, the state's statewide voter registration database.

In 2015, the Legislature approved and the Governor signed SB 439 (Allen), Chapter 734, Statutes of 2015, which permits county elections officials to offer conditional voter registration and provisional voting at satellite offices during the entire 14 days immediately preceding election day, among other provisions.

In practice, many counties already offer early voting at satellite offices the weekend before election day, however, few counties provide as many early voting locations as would be required by this bill.

- 4) **Special Elections and Suggested Amendments:** This bill requires a local elections official to offer one early voting satellite office for every 10,000 registered voters in *any* election, including special elections. Consequently, county elections officials would be required to make extensive early voting locations available for special elections. In contrast, the CVCA

permits any county to conduct *any* election using the vote center model, however, the CVCA applies different requirements when conducting a special election. As mentioned above, for special elections, the CVCA requires one vote center for every 60,000 registered voters from the 10th day to the day prior to the election, and one vote center for every 30,000 registered voters on election day, as specified. The committee and the author may wish to consider amending the bill to require elections officials that are conducting special elections in counties that are not conducting elections pursuant to the CVCA to be subject to the same ratios for vote centers as are required for special elections pursuant to the CVCA.

- 5) **Pew Research Report:** A 2017 Pew Research Center study of the 2016 election presidential election reports that “[tens] of millions of registered voters did not cast a ballot in the 2016 presidential election, and the share who cited a ‘dislike of the candidates or campaign issues’ as their main reason for not participating reached a new high of 25%.” The study states that “[while] a dislike of the candidates or issues was the most frequently cited reason for not voting, other top reasons included a lack of interest or a feeling that their vote wouldn’t make a difference (15%), being too busy or having a conflicting schedule (14%), having an illness or disability (12%) and being out of town or away from home (8%).” Moreover, the study reported that “[the] share who said they were too busy or had a conflicting schedule in 2016 – the most common reason given in previous elections – was down from 19% in 2012 to 14%.”
- 6) **Suggested Technical Amendment:** As mentioned above, this bill does not apply to jurisdictions conducting an all-mailed ballot election. To ensure this bill does not apply to CVCA counties, committee staff recommends the following technical amendment:

On page 2, in line 21, after the word “election” insert “*pursuant to Sections 4000, 4000.5, 4001.5, 4005, or 4007.*”

- 7) **Arguments in Support:** In support, the American Civil Liberties Union of California writes:

For California counties opting to conduct elections under the Voter’s Choice Act, voters can cast an early ballot at vote centers. A limited number of vote centers open 10 days prior to election, and a greater number of vote centers open in the four days leading up to and including Election Day. Several California counties not conducting Voters Choice Act elections also already offer some level of weekend or early voting, but this is not guaranteed to voters and varies in how expansive it is.

We also encourage strengthening the bill to require conditional voter registration be offered at these satellite locations and to require elections officials to post potential satellite locations online and give the public an opportunity to comment on those locations.

- 8) **Related Legislation:** SB 72 (Umberg), requires a county elections official to offer conditional voter registration and provisional voting at all county elections officials’ satellite offices and polling places, as specified. SB 72 is pending in the Senate Elections & Constitutional Amendments Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Civil Liberties Union of California  
California Common Cause  
California League of Conservation Voters  
League of Women Voters of California

**Opposition**

None on file.

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