

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 2028 (Mullin) – As Amended: April 28, 2014

SUBJECT: All-mailed ballot elections: San Mateo County.

SUMMARY: Authorizes San Mateo County to participate in an ongoing pilot project that allows certain elections to be conducted entirely by mailed ballot. Specifically, this bill:

- 1) Allows San Mateo County to join a pilot program currently underway in Yolo County, under which Yolo County is permitted to conduct all-mailed ballot elections on up to three different dates through January 1, 2018, subject to certain conditions and reporting requirements.
- 2) Modifies one of the conditions of the pilot program such that the number of ballot dropoff locations required to be provided at an all-mailed ballot election is either one location per city or one location per 100,000 residents, whichever results in more dropoff locations, instead of one location per city.

EXISTING LAW:

- 1) Allows elections held on no more than three different dates in Yolo County 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 and is 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 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: Keyed non-fiscal by the Legislative Counsel.

COMMENTS:1) Purpose of the Bill:

In recent years, the percentage of California voters who cast mail-in ballots has increased dramatically, and it is especially great in special elections. Last year more than 80% of voters cast their ballots by mail in some cases. At the same time, these special elections see abysmal turnout levels, at times dipping below 10% of eligible voters.

Research from the University of California San Diego 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 much less than traditional polling place elections.

In 2011 the legislature authorized a pilot project to examine the effects of vote-by-mail elections on turnout levels in special elections. The project only applied to one rural county, and it capped the number of mail-in elections at three; it is set to expire in 2018. Last year, 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, even 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.

Because there are only two permissible all-mail special election dates left under the pilot, the legislature should expand the program to gather more data. In doing so, an urban county should be included to contrast the rural county that is already part of the program. San Mateo County is a great candidate: it is an urban county and, as a charter county, it already conducts some special elections by mail, so an all-mail infrastructure is already in place. By adding San Mateo County to the pilot, AB 2028 proposes a modest program expansion.

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 vote 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) 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 last March in the City of Davis and the Washington Unified School District as permitted by AB 413, and submitted its report on those elections last December. The pilot project in Yolo County was authorized following a prior pilot project in Monterey County that failed to provide useful information about the impacts of all-mailed ballot elections because the report filed by Monterey County as part of the pilot project lacked much of the information that was necessary to evaluate the impacts of the pilot project.

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.

- 4) United States Postal Service Facility Closures and Mail Delays: In 2012, this committee and the Senate Elections and Constitutional Amendments Committee held a joint oversight hearing to discuss United States Postal Service (USPS) facility closures and the impact on voters and upcoming elections. During the hearing, state and county elections officials testified about the impact that recent post office and processing facility closures had on their jurisdictions and on local elections, as well as the anticipated challenges with more closures expected.

According to testimony from elections officials, one of the most significant impacts those closures had on the election process is that there had been significant delays in mail delivery in some circumstances. Elections officials from counties that were previously served by closed facilities indicated that some first class mail took five to seven days to arrive after closures of USPS facilities, compared to the usual delivery time of one to three days. Since that hearing, the USPS has announced further plans for changes in mail delivery procedures that also have the potential to delay mail delivery. Finally, the USPS and Congress have considered proposals to end Saturday mail delivery as a way to cut costs.

The committee may wish to consider whether it is appropriate to permit all-mail ballot elections to be used in a broader range of circumstances when closures and operational changes by the USPS may result in mail delivery delays, and otherwise make mail delivery less reliable.

- 5) Related Legislation: AB 1873 (Gonzalez and Mullin), which is also being heard in this committee today, allows special elections to fill vacancies in the Legislature and Congress to be conducted entirely by mailed ballot, and allows any city or county special election to be conducted entirely by mailed ballot, among other provisions.
- 6) Previous Legislation: 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

California State Association of Counties
San Mateo County Board of Supervisors
Urban Counties Caucus

Opposition

Disability Rights California (unless amended) (prior version)

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