

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY APRIL 22, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1873

Introduced by Assembly Members Gonzalez and Mullin

February 19, 2014

An act to amend Section 10703 of, and to add *and repeal* Section 4000.5 to, of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, as amended, Gonzalez. ~~Mail~~ *Special mail* ballot elections: *San Diego County*.

Existing law provides for the calling of a special election to fill a congressional or legislative vacancy. Under existing law, the governing body of a local agency is authorized to conduct a local, special, or consolidated election wholly by mail under specified conditions.

This bill would, until January 1, 2020, authorize ~~a board of supervisors of a county~~ *San Diego County* to conduct ~~a~~, *as a pilot program, an all-mailed ballot* special election or special consolidated election to fill a congressional or legislative vacancy ~~wholly by mail~~ under specified conditions. The bill would also authorize ~~any jurisdiction conducting a special election wholly by mail~~ *the county* to process vote by mail ballot return envelopes beginning 29 days before the election, and would authorize ~~any jurisdiction in possession of the necessary computer capability~~ *the county* to process vote by mail ballots on the 10th business day before the election, as specified.

The bill would express the intent of the Legislature that voter education and outreach efforts be conducted in order to assist voters accustomed to voting at the polls if an all-mailed ballot election is conducted, as specified. The bill would require the county to submit a report to the Legislature and to the Secretary of State that includes specified statistics related to any all-mailed ballot election conducted under the pilot program, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of San Diego.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. (a) The Legislature hereby finds and declares*
 2 *all of the following:*
 3 *(1) While the number of voters in California casting ballots by*
 4 *mail continues to increase, all-mailed ballot elections are not an*
 5 *appropriate method to conduct regularly scheduled elections as*
 6 *significant numbers of voters continue to vote at polling places.*
 7 *(2) The unique voting behavior and demographics of San Diego*
 8 *County relative to the rest of the state enable San Diego County*
 9 *to conduct elections primarily by vote by mail ballot, as follows:*
 10 *(A) The mean percentage of voters within San Diego County*
 11 *casting vote by mail ballots is equal to or greater than the statewide*
 12 *mean percentage of voters casting vote by mail ballots.*
 13 *(B) The majority of all ballots cast within San Diego County*
 14 *are vote by mail ballots.*
 15 *(C) The mean percentage of vote by mail ballots cast but not*
 16 *counted within San Diego County does not exceed the statewide*
 17 *mean percentage of vote by mail ballots cast but not counted.*
 18 *(D) In San Diego County, the percentage of vote by mail ballots*
 19 *cast by members of a protected class is equal to or greater than*
 20 *the percentage of votes cast by members of a protected class at*
 21 *polling places for any specified election. For purposes of this act,*
 22 *“protected class” means voters who are members of a racial or*
 23 *language minority group, as referenced and defined in the federal*
 24 *Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).*

1 (E) In San Diego County, the percentage of vote by mail ballots
2 cast for special elections represents more than 50 percent of all
3 ballots cast.

4 (F) Over 50 percent of all eligible registered voters in San Diego
5 County are permanent vote by mail voters.

6 (b) Accordingly, it is the intent of the Legislature in enacting
7 this act for a specified period to achieve all of the following:

8 (1) Ample voter education and outreach efforts shall be
9 conducted to assist voters accustomed to voting at the polls to vote
10 using vote by mail ballots.

11 (2) Voter education and outreach shall be provided in English
12 and in every language in which a ballot is required to be made
13 available pursuant to the Elections Code and the federal Voting
14 Rights Act of 1965, and shall include the steps an elections official
15 is required to take to ensure that voter education and outreach is
16 conducted in those languages.

17 (3) In preparation for a special election pursuant to this act,
18 San Diego County shall consult with communities with
19 limited-English-proficient persons and historically lower voter
20 turnout, in addition to nonprofit community-based organizations
21 including, but not limited to, organizations that work with and
22 advocate on behalf of people with disabilities.

23 **SECTION 1.**

24 **SEC. 2.** Section 4000.5 is added to the Elections Code, to read:

25 4000.5. (a) Notwithstanding Section 4000 or any other law, a
26 as a pilot program, an all-mailed ballot special election or special
27 consolidated election in San Diego County may be conducted
28 wholly by mail to fill a vacancy in a congressional or legislative
29 office if all of the following apply:

30 (1) The congressional or legislative district lies wholly within
31 San Diego County.

32 ~~(1)~~

33 ~~(2) The board of supervisors of each county that lies in whole~~
34 ~~or in part within the congressional or legislative district Board of~~
35 ~~Supervisors of San Diego County, by resolution, authorizes the~~
36 use of mailed ballots for the election.

37 ~~(2)~~

38 (3) The election does not occur on the same date as a statewide
39 direct primary election, statewide general election, or any other

1 election conducted in an overlapping jurisdiction that is not
 2 consolidated and conducted wholly by mail pursuant to this section.

3 ~~(3)~~

4 (4) (A) ~~At~~ *If the boundaries of the congressional or legislative*
 5 *district overlap with the boundaries of a city, at least one ballot*
 6 *dropoff location is provided per city and is open during business*
 7 *hours to receive voted ballots beginning not less than seven days*
 8 *before the date of the election.*

9 (B) The number of dropoff locations in unincorporated areas
 10 shall be based on the number of unincorporated registered voters
 11 divided by 100,000 (rounded to the next whole number) with no
 12 less than one location to be selected.

13 (C) *A ballot dropoff location provided for under this section*
 14 *shall consist of a locked ballot box located in a secure public*
 15 *building that meets the accessibility requirements for a polling*
 16 *place.*

17 ~~(C)~~

18 (5) On at least one Saturday and Sunday on or after the date ~~an~~
 19 *the county elections official first delivers ballots to voters, the*
 20 *elections official shall allow* allows any voter to vote the ballot at
 21 a satellite location within the congressional or legislative district
 22 pursuant to Section 3018. The elections official shall determine
 23 the hours of operation for each Saturday and Sunday, provided
 24 that the satellite location shall be open to voters for a minimum of
 25 six hours on each designated Saturday and Sunday.

26 ~~(D)~~

27 (6) (A) At least one polling place is provided per city or the
 28 polling places are fixed in a manner so that there is one polling
 29 place for every 10,000 registered voters within the congressional
 30 or legislative district, as determined on the 88th day prior to the
 31 day of the election, whichever results in more polling places. A
 32 polling place shall allow a voter to request and vote a ballot
 33 between 7 a.m. and 8 p.m. on the day of the election.

34 ~~(E)~~

35 (B) The polling places provided under this section shall be
 36 established in accordance with the accessibility requirements
 37 described in Article 5 (commencing with Section 12280) of Chapter
 38 3 of Division 12, *the federal Americans with Disabilities Act of*
 39 *1990 (42 U.S.C. Sec. 12101 et seq.), the federal Help America*
 40 *Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), and in the federal*

1 Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.), and shall
2 be, *to the extent possible, ensure that access is evenly distributed*
3 throughout the congressional or legislative district.

4 ~~(F) Precinct boards shall be appointed and established in~~
5 ~~accordance with Article 1 (commencing with Section 12300) of~~
6 ~~Chapter 4 of Division 12.~~

7 ~~(G) Except as otherwise provided in this section, the election~~
8 ~~day procedures shall be conducted in accordance with Division~~
9 ~~14 (commencing with Section 14000).~~

10 ~~(H) The elections official may provide, at his or her discretion,~~
11 ~~additional ballot dropoff locations and polling places.~~

12 ~~(4)~~

13 *(C) The polling places provided under this section shall be*
14 *established at accessible locations and shall be equipped with*
15 *voting units or systems that are accessible to individuals with*
16 *disabilities and that provide the same opportunity for access and*
17 *participation as is provided to voters who are not disabled,*
18 *including the ability to vote privately and independently in*
19 *accordance with Sections 12280 and 19240.*

20 *(D) If a polling place consolidates one or more precincts for*
21 *which the county elections official is required to recruit precinct*
22 *board members who are fluent in a language in addition to English*
23 *pursuant to subdivision (c) of Section 12303 or the federal Voting*
24 *Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.), the elections*
25 *official shall make reasonable efforts to ensure that the polling*
26 *place is staffed by precinct board members who speak those*
27 *languages.*

28 (7) (A) The county elections official delivers to each voter all
29 supplies necessary for the use and return of the mail ballot,
30 including an envelope for the return of the voted mail ballot with
31 postage prepaid.

32 ~~(5)~~

33 (B) The county elections official delivers to each voter, with
34 either the sample ballot sent pursuant to Section 13303 or with the
35 voter's ballot, all of the following:

36 ~~(A)~~

37 ~~(i) A notice informing voters that the election is being conducted~~
38 ~~wholly by mail and that each eligible voter will receive a ballot~~
39 ~~by mail, translated in all languages required under subdivision~~
40 ~~(c) of Section 14201 and Section 203 of the federal Voting Rights~~

1 Act of 1965 (42 U.S.C. Sec. 1971 et seq.), that informs voters of
 2 all of the following:

3 (I) An all-mailed ballot election is being conducted and each
 4 eligible voter will receive a ballot by mail.

5 (II) The voter may cast a ballot in person at a satellite location
 6 provided for under paragraph (5) or at a polling place on election
 7 day.

8 (III) The voter may request the county elections official to send
 9 a vote by mail ballot in a language other than English pursuant
 10 to Section 203 of the federal Voting Rights Act of 1965 (42 U.S.C.
 11 Sec. 1971 et seq.) or a facsimile copy of the ballot printed in other
 12 languages pursuant to Section 14201.

13 ~~(B)~~

14 (ii) A list of the ballot dropoff locations, *satellite locations*, and
 15 polling places established pursuant to ~~paragraph (3)~~ *this section*.
 16 The list shall also be posted on the Internet Web site of the county
 17 elections official.

18 ~~(C)~~

19 (iii) ~~A statement informing voters that the voting materials,~~
 20 ~~including the official ballot and the facsimile ballot, are available~~
 21 ~~in all languages required by subdivision (e) of Section 14201 or~~
 22 ~~the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et~~
 23 ~~seq.); postage-paid postcard that the voter may return to the county~~
 24 ~~elections official for the purpose of requesting a vote by mail ballot~~
 25 ~~in a language other than English.~~

26 ~~(b) If the congressional or legislative district includes more than~~
 27 ~~one county, the board of supervisors of every county within the~~
 28 ~~district shall enter into an agreement to conduct the special election~~
 29 ~~wholly by mail pursuant to this section.~~

30 ~~(e)~~

31 (8) (A) The county elections official submits to the Secretary
 32 of State a voter education and outreach plan to be implemented
 33 by the county for any election conducted pursuant to this section.
 34 The voter education and outreach plan shall include, but shall not
 35 be limited to, all of the following:

36 (i) One education and outreach meeting that shall include
 37 representatives, advocates, and other stakeholders representing
 38 each community for which the county is required to provide voting
 39 materials and assistance in other languages under subdivision (c)

1 of Section 14201 and the federal Voting Rights Act of 1965 (42
2 U.S.C. Sec. 1971 et seq.).

3 (ii) One education and outreach meeting that shall include
4 representatives from community organizations and individuals
5 that advocate on behalf of, or provide services to, individuals with
6 disabilities.

7 (iii) At least one bilingual voter education program for each
8 language in which the county is required to provide voting
9 materials and assistance under subdivision (c) of Section 14201
10 and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et
11 seq.).

12 (iv) At least one voter education program to increase
13 accessibility for participation of eligible voters with disabilities.

14 (v) A toll-free voter assistance hotline maintained by the county
15 elections official that shall be operational no later than the date
16 that vote by mail ballots are mailed to voters until 5 p.m. on the
17 day after the special election. The toll-free voter assistance hotline
18 shall provide assistance to voters in all languages in which the
19 county is required to provide voting materials and assistance under
20 subdivision (c) of Section 14201 and the federal Voting Rights Act
21 of 1965 (42 U.S.C. Sec. 1971 et seq.).

22 (vi) At least one public service announcement in the media,
23 including newspapers, radio, and television, that serve
24 English-speaking citizens for purposes of informing voters of the
25 upcoming election and promoting the toll-free voter assistance
26 hotline.

27 (vii) At least one public service announcement in the media,
28 including newspapers, radio, and television, that serve
29 non-English-speaking citizens for each language in which the
30 county is required to provide voting materials and assistance under
31 subdivision (c) of Section 14201 and the federal Voting Rights Act
32 of 1965 (42 U.S.C. Sec. 1971 et seq.) for purposes of informing
33 voters of the upcoming election and promoting the toll-free voter
34 assistance hotline.

35 (viii) A voter education social media strategy that is developed
36 in partnership with community organizations and individuals that
37 advocate on behalf of, or provide services to, non-English-speaking
38 individuals and individuals with disabilities.

1 (B) *The voter education and outreach plan shall be posted on*
 2 *the Internet Web site of the Secretary of State and on the Internet*
 3 *Web site of the county elections official.*

4 (b) *Except as otherwise provided in this section, the election*
 5 *day procedures shall be conducted in accordance with Division*
 6 *14 (commencing with Section 14000).*

7 (c) *The county elections official may provide, at his or her*
 8 *discretion, additional ballot dropoff locations and polling places*
 9 *for purposes of this section.*

10 (d) ~~The return of voted mail ballots is subject to subdivision (d)~~
 11 ~~and Section Sections 3017 and 3020.~~

12 ~~(d) (1) All vote by mail ballots cast under this section shall be~~
 13 ~~received by the elections official from whom they were obtained~~
 14 ~~or by the precinct board no later than the close of the polls on~~
 15 ~~election day.~~

16 ~~(2) Notwithstanding paragraph (1), any vote by mail ballot cast~~
 17 ~~under this section shall be timely cast if it is received by the voter's~~
 18 ~~elections official no later than three days after election day and~~
 19 ~~either of the following is satisfied:~~

20 ~~(A) The ballot is postmarked on or before election day or is~~
 21 ~~time stamped or date stamped by a bona fide private mail delivery~~
 22 ~~company on or before election day.~~

23 ~~(B) If the ballot has no postmark, a postmark with no date, or~~
 24 ~~an illegible postmark, the vote by mail ballot identification~~
 25 ~~envelope is signed and dated pursuant to Section 3011 on or before~~
 26 ~~election day.~~

27 (e) (1) ~~Any jurisdiction conducting a special election under this~~
 28 ~~section~~ *If the county conducts a special election pursuant to this*
 29 *section, it may process vote by mail ballot return envelopes*
 30 *beginning 29 days before the election. Processing vote by mail*
 31 *ballot return envelopes may include verifying the voter's signature*
 32 *on the vote by mail ballot return envelope and updating voter*
 33 *history records.*

34 (2) ~~Any jurisdiction conducting a special election under this~~
 35 ~~section and in possession of the necessary computer capability~~ *If*
 36 *the county conducts a special election pursuant to this section, it*
 37 *may start to process vote by mail ballots on the 10th business day*
 38 *before the election. Processing vote by mail ballots includes*
 39 *opening vote by mail ballot return envelopes, removing ballots,*
 40 *duplicating any damaged ballots, and preparing the ballots to be*

1 machine read, or machine reading them, but under no circumstances
2 shall a vote count be accessed or released until 8 p.m. on the day
3 of the election. ~~All other jurisdictions shall start to process vote~~
4 ~~by mail ballots at 5 p.m. on the day before the election.~~

5 (f) Results of any vote by mail ballot tabulation or count shall
6 not be released before the close of the polls on the day of the
7 election.

8 (g) *For the sole purpose of reporting the results of an election*
9 *conducted pursuant to this section, upon completion of the ballot*
10 *count, the county elections official shall divide the jurisdiction*
11 *into precincts pursuant to Article 2 (commencing with Section*
12 *12220) of Chapter 3 of Division 12 and shall prepare a statement*
13 *of the results of the election in accordance with Sections 15373*
14 *and 15374.*

15 (h) *The county elections official shall compile an index, list, or*
16 *file of all persons who voted in an election conducted pursuant to*
17 *this section. If the elections official uses data-processing equipment*
18 *to compile the index, list, or file, he or she shall retain an accurate*
19 *copy of that index, list, or file in electronic format for a period of*
20 *10 years.*

21 (i) (1) *If an election is conducted pursuant to this section, San*
22 *Diego County shall report to the Legislature and to the Secretary*
23 *of State regarding the success of the election, including, but not*
24 *limited to, any statistics on the cost to conduct the election; the*
25 *turnout of different populations, including, but not limited to and*
26 *to the extent possible, the population categories of race, ethnicity,*
27 *language preference, age, gender, disability, permanent vote by*
28 *mail status, and political party affiliation as it relates to the*
29 *languages required under the federal Voting Rights Act of 1965;*
30 *the number of ballots that were not counted and the reasons they*
31 *were rejected; voter fraud; and any other problems that became*
32 *known to the county during the election or canvass.*

33 (2) *Whenever possible, using the criteria set forth in paragraph*
34 *(1), the report shall compare the election conducted pursuant to*
35 *this section to similar elections not conducted pursuant to this*
36 *section in the same jurisdiction or comparable jurisdictions.*

37 (3) *Within six months after the date of the election or prior to*
38 *the date of a subsequent election conducted pursuant to this*
39 *section, whichever is sooner, San Diego County shall do all of the*
40 *following with respect to the report required by this subdivision:*

1 (A) *Submit the report to the Legislature in compliance with*
2 *Section 9795 of the Government Code.*

3 (B) *Submit the report to the Secretary of State.*

4 (C) *Post the report on the Internet Web site of the county*
5 *elections official.*

6 ~~(g)~~

7 (j) This section shall remain in effect only until January 1, 2020,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2020, deletes or extends that date.

10 ~~SEC. 2.~~

11 SEC. 3. Section 10703 of the Elections Code is amended to
12 read:

13 10703. (a) A special election to fill a vacancy in the office of
14 Representative in Congress, State Senator, or Member of the
15 Assembly shall be conducted on a Tuesday at least 126 days, but
16 not more than 140 days, following the issuance of an election
17 proclamation by the Governor pursuant to Section 1773 of the
18 Government Code, except that the special election may be
19 conducted within 180 days following the proclamation in order
20 that the election or the primary election may be consolidated with
21 the next regularly scheduled statewide election or local election
22 occurring wholly or partially within the same territory in which
23 the vacancy exists, provided that the voters eligible to vote in the
24 local election comprise at least 50 percent of all the voters eligible
25 to vote on the vacancy.

26 (b) Except as provided in Chapter 3 (commencing with Section
27 10730), a special election or a primary election may not be
28 conducted on the day after a state holiday.

29 (c) (1) A special election described in this section may be
30 conducted ~~wholly by mail~~ *as an all-mailed ballot election* pursuant
31 to Section 4000.5.

32 (2) This subdivision shall remain in effect only until January 1,
33 2020, and as of that date is repealed, unless a later enacted statute,
34 that is enacted before January 1, 2020, deletes or extends that date.

35 SEC. 4. *The Legislature finds and declares that a special law*
36 *is necessary and that a general law cannot be made applicable*
37 *within the meaning of Section 16 of Article IV of the California*
38 *Constitution because of the voting behavior, demographic*
39 *characteristics, and unique special election experiences of San*

- 1 *Diego County. It is the intent of the Legislature that the provisions*
- 2 *of this act serve as a pilot program for future special elections.*

O