

Assembly Bill No. 1873

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 28, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1873, Gonzalez. 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 San Diego County to conduct, as a pilot program, an all-mailed ballot special election or special consolidated election to fill a congressional or legislative vacancy under specified conditions. The bill would also authorize the county to process vote by mail ballot return envelopes beginning 29 days before the election, and would authorize 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.

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

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) While the number of voters in California casting ballots by mail continues to increase, all-mailed ballot elections are not an

appropriate method to conduct regularly scheduled elections as significant numbers of voters continue to vote at polling places.

(2) The unique voting behavior and demographics of San Diego County relative to the rest of the state enable San Diego County to conduct elections primarily by vote by mail ballot, as follows:

(A) The mean percentage of voters within San Diego County casting vote by mail ballots is equal to or greater than the statewide mean percentage of voters casting vote by mail ballots.

(B) The majority of all ballots cast within San Diego County are vote by mail ballots.

(C) The mean percentage of vote by mail ballots cast but not counted within San Diego County does not exceed the statewide mean percentage of vote by mail ballots cast but not counted.

(D) In San Diego County, the percentage of vote by mail ballots cast by members of a protected class is equal to or greater than the percentage of votes cast by members of a protected class at polling places for any specified election. For purposes of this act, “protected class” means voters who are members of a racial or language minority group, as referenced and defined in the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).

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

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

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

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

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

(3) In preparation for a special election pursuant to this act, San Diego County shall consult with communities with limited-English-proficient persons and historically lower voter turnout, in addition to nonprofit community-based organizations

including, but not limited to, organizations that work with and advocate on behalf of people with disabilities.

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

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

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

(2) The Board of Supervisors of San Diego County, by resolution, authorizes the use of mailed ballots for the election.

(3) The election does not occur on the same date as a statewide direct primary election, statewide general election, or any other election conducted in an overlapping jurisdiction that is not consolidated and conducted wholly by mail.

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

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

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

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

(6) (A) At least one polling place is provided per city or the polling places are fixed in a manner so that there is one polling place for every 10,000 registered voters within the congressional

or legislative district, as determined on the 88th day prior to the day of the election, whichever results in more polling places. A polling place shall allow a voter to request and vote a ballot between 7 a.m. and 8 p.m. on the day of the election.

(B) The polling places provided under this section shall be established in accordance with the accessibility requirements described in Article 5 (commencing with Section 12280) of Chapter 3 of Division 12, the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.), and shall, to the extent possible, ensure that access is evenly distributed throughout the congressional or legislative district.

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

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

(7) (A) The county 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.

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

(i) A notice, translated in all languages required under subdivision (c) of Section 14201 and Section 203 of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.), that informs voters of all of the following:

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

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

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

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

(iii) A postage-paid postcard that the voter may return to the county elections official for the purpose of requesting a vote by mail ballot in a language other than English.

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

(i) One education and outreach meeting that shall include representatives, advocates, and other stakeholders representing each community for which the county is required to provide voting materials and assistance in other languages under subdivision (c) of Section 14201 and the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).

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

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

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

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

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

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

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

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

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

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

(d) The return of voted mail ballots is subject to Sections 3017 and 3020.

(e) (1) If the county conducts a special election pursuant to this section, it may process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature

on the vote by mail ballot return envelope and updating voter history records.

(2) If the county conducts a special election pursuant to this section, it may start to process vote by mail ballots on the 10th business day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances shall a vote count be accessed or released until 8 p.m. on the day of the election.

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

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

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

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

(2) Whenever possible, using the criteria set forth in paragraph (1), the report shall compare the election conducted pursuant to

this section to similar elections not conducted pursuant to this section in the same jurisdiction or comparable jurisdictions.

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

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

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

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

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

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

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

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

(c) (1) A special election described in this section may be conducted as an all-mailed ballot election pursuant to Section 4000.5.

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

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable

within the meaning of Section 16 of Article IV of the California Constitution because of the voting behavior, demographic characteristics, and unique special election experiences of San Diego County. It is the intent of the Legislature that the provisions of this act serve as a pilot program for future special elections.

Approved _____, 2014

Governor