

Assembly Bill No. 547

CHAPTER 727

An act to amend Section 4000.5 of the Elections Code, relating to elections.

[Approved by Governor October 10, 2015. Filed with
Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 547, Gonzalez. Elections: special elections: all-mailed ballot elections.

Existing law authorizes, until January 1, 2020, 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. If such an election is conducted, existing law requires San Diego County to report certain information to the Legislature and the Secretary of State regarding the success of the election.

This bill, until January 1, 2021, would authorize San Diego County, or any city, school district, community college district, special district, or other district or political subdivision whose boundaries are located wholly within San Diego County, to conduct an all-mailed ballot special election or special consolidated election to fill a vacancy on the legislative or governing body of those entities. The bill would authorize those entities to also hold an all-mailed ballot special election for county initiatives, city initiatives, district initiatives, bond issues, and school measures conducted pursuant to specified provisions. The bill would extend the pilot program for San Diego County, as described above, until January 1, 2021. The bill would also require certain voter education workshops to be conducted in-person.

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. Section 4000.5 of the Elections Code is amended 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 by an eligible entity if the special election or special consolidated election is any of the following:

- (1) A special election to fill a vacancy in a congressional or legislative office.
- (2) A special election to fill a vacancy in the legislative body or governing body.

(3) A special election conducted pursuant to Chapter 2 (commencing with Section 9100), Chapter 3 (commencing with Section 9200), Chapter 4 (commencing with Section 9300), Chapter 5 (commencing with Section 9400), or Chapter 6 (commencing with Section 9500) of Division 9.

(b) A special election or special consolidated election described in paragraphs (1) to (3), inclusive, of subdivision (a), may be conducted wholly as an all-mailed ballot election if all of the following apply:

(1) (A) For a special election to fill a vacancy in a congressional or legislative office, the Board of Supervisors of San Diego County, by resolution, authorizes the use of mailed ballots for the election and the congressional or legislative district lies wholly within San Diego County.

(B) For all other special elections the legislative body or governing body of the eligible entity, by resolution, authorizes the use of mailed ballots for the election.

(2) 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.

(3) (A) If the boundaries of the jurisdiction of the eligible entity overlap with the boundaries of a city, at least one ballot dropoff location is provided per city that 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.

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

(5) (A) At least one polling place is provided per eligible entity or the polling places are fixed in a manner so that there is one polling place for every 10,000 registered voters within the jurisdiction of the eligible entity, as determined on the 88th day before 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 (52 U.S.C. Sec. 20901 et seq.), and

the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.), and shall, to the extent possible, ensure that access is evenly distributed throughout the jurisdiction of the eligible entity.

(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 elections official is required to recruit precinct board members who are fluent in a language in addition to English pursuant to the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.), the elections official shall ensure that the polling place is staffed by precinct board members who speak that language.

(E) If a polling place consolidates one or more precincts for which the 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, the elections official shall make reasonable efforts to ensure that the polling place is staffed by precinct board members who speak that language.

(6) (A) 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.

(B) The 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 (52 U.S.C. Sec. 10101 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 (4) or at a polling place on election day.

(III) The voter may request the 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 (52 U.S.C. Sec. 10101 et seq.) or a facsimile copy of the ballot printed in a language other than English 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 elections official.

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

(7) (A) The elections official submits to the Secretary of State a voter education and outreach plan to be implemented by the eligible entity 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 includes representatives, advocates, and other stakeholders representing each community for which the eligible entity is required to provide voting materials and assistance in a language other than English under subdivision (c) of Section 14201 and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

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

(iii) At least one in-person bilingual voter education workshop for each language in which the eligible entity is required to provide voting materials and assistance under subdivision (c) of Section 14201 and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

(iv) At least one in-person voter education workshop to increase accessibility for participation of eligible voters with disabilities.

(v) A toll-free voter assistance hotline maintained by the elections official that is 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 eligible entity is required to provide voting materials and assistance under subdivision (c) of Section 14201 and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 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 eligible entity is required to provide voting materials and assistance under subdivision (c) of Section 14201 and the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 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 elections official.

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

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

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

(f) (1) If the eligible entity 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 eligible entity 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.

(g) 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.

(h) For the sole purpose of reporting the results of an election conducted pursuant to this section, upon completion of the ballot count, the 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.

(i) The 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.

(j) (1) If an election is conducted pursuant to this section, the eligible entity shall report to the Legislature and to the Secretary of State regarding the success of the election, including, but not limited to, all of the following:

(A) Any statistics on the cost to conduct the election.

(B) 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 preference.

(C) The number of ballots that were not counted and the reasons they were rejected.

(D) Voter fraud.

(E) Any other problems that become known to the eligible entity 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 before the date of a subsequent election conducted pursuant to this section, whichever is sooner, the eligible entity 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 elections official.

(k) For purposes of this section, “eligible entity” means both of the following:

(1) San Diego County.

(2) A city, school district, community college district, special district, or other district or political subdivision organized pursuant to state law, whose boundaries are located wholly within San Diego County.

(l) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

SEC. 2. 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 continue the pilot program that may be used for future special elections.