

Assembly Bill No. 37

Passed the Assembly September 3, 2021

Chief Clerk of the Assembly

Passed the Senate September 2, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3000.5, 3016.7, 3019.7, 3020, and 15101 of, to add Section 3025.5 to, and to repeal Section 3016.5 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 37, Berman. Elections: vote by mail ballots.

Existing law requires county elections officials to mail a ballot to every registered voter for all elections proclaimed or conducted prior to January 1, 2022. Existing law requires county elections officials to use a specified Secretary of State vote by mail tracking system or a system that meets the same specifications.

This bill would extend the requirements to mail a ballot to every registered voter to all elections and apply them to all local elections officials. This bill would require a vote by mail tracking system to be accessible to voters with disabilities. The bill would also make various conforming and technical changes.

Existing law requires county elections officials to permit voters with a disability, and military or overseas voters, to cast a ballot using a certified remote accessible vote by mail system, and required county elections officials to permit any voter to cast a ballot using a certified remote accessible vote by mail system for the November 3, 2020, statewide general election.

This bill would require county elections officials to permit any voter to cast a ballot using a certified remote accessible vote by mail system for any election.

Under existing law, a vote by mail ballot is timely cast if it is voted on or before election day and, if returned by mail, received by the voter's elections official via the United States Postal Service, or a bona fide private mail delivery company, no later than 3 days after election day.

This bill would provide instead that a vote by mail ballot is timely cast if it is voted on or before election day and, if returned by mail, received no later than 7 days after election day. This bill would authorize an elections official to consider any information from the United States Postal Service or a bona fide private mail delivery company that indicates the date on which the ballot was

mailed, in order to determine whether a vote by mail ballot was timely cast.

Existing law authorizes a jurisdiction in which vote by mail ballots are cast to begin processing vote by mail ballot return envelopes 29 days before the election. Existing law authorizes a jurisdiction having the necessary computer capability to start processing vote by mail ballots on the 15th business day before the election, except, for the statewide general election held on November 3, 2020, these jurisdictions were authorized to start processing the ballots on the 29th day before the election. Existing law authorizes all other jurisdictions to start processing vote by mail ballots at 5 p.m. on the day before the election.

Existing law authorizes a county elections official to establish vote by mail ballot drop-off locations, as defined. Existing law authorizes a county to conduct any election as an all-mailed ballot election under certain specified conditions.

This bill would require any county that does not conduct an all-mailed ballot election to provide at least two vote by mail ballot drop-off locations within the jurisdiction where the election is held, or at least one vote by mail ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more vote by mail ballot drop-off locations. In a jurisdiction with fewer than 30,000 registered voters, the bill would require at least one vote by mail ballot drop-off location, and would require the elections official to make a reasonable effort to provide a ballot drop-off location in the jurisdiction where the election is held. This bill would require the operation of vote by mail ballot drop-off locations to meet certain specified criteria.

This bill would authorize a jurisdiction having the necessary computer capability to start processing vote by mail ballots the 29th day before any election.

By requiring local elections officials to mail a ballot to every registered voter, and to take other actions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 3000.5 of the Elections Code is amended to read:

3000.5. (a) Notwithstanding any other law, for each election, the elections official shall, no later than 29 days before the day of the election, begin mailing the materials specified in Section 3010 to every registered voter. The elections official shall have five days to mail a ballot to each person who is registered to vote on the 29th day before the day of the election and five days to mail a ballot to each person who is subsequently registered to vote. The elections official shall not discriminate against any region or precinct in choosing which ballots to mail first within the prescribed five-day mailing period.

(b) The distribution of vote by mail ballots to all registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.

(c) Consistent with paragraph (2) of subdivision (a) of Section 2226, this section is not intended and shall not be construed to authorize a voter with an inactive voter registration status to receive a vote by mail ballot for an election.

SEC. 2. Section 3016.5 of the Elections Code is repealed.

SEC. 3. Section 3016.7 of the Elections Code is amended to read:

3016.7. The county elections official shall permit any voter to cast a ballot using a certified remote accessible vote by mail system, regardless of whether the voter is a voter with disabilities or a military or overseas voter.

SEC. 4. Section 3019.7 of the Elections Code is amended to read:

3019.7. (a) The Secretary of State shall maintain a system to allow a vote by mail voter to track the voter's vote by mail ballot through the mail system and as the vote by mail ballot is processed by the county elections official. A county elections official shall use this system unless the county makes available to voters a

different vote by mail ballot tracking system that meets or exceeds the level of service provided by the Secretary of State's system. The system shall, at a minimum, be accessible to voters with disabilities and allow a voter to register to receive information via email or text message from the county elections official about the status of the voter's vote by mail ballot, including all of the following information:

(1) A notification when the ballot has been delivered by the county elections official to the United States Postal Service.

(2) A notification of the date, based on information from the United States Postal Service, that the voter's ballot is expected to be delivered to the voter.

(3) A notification if the voter's ballot is returned as undeliverable to the county elections official by the United States Postal Service.

(4) A notification when the voter's completed ballot has been received by the county elections official.

(5) A notification that the voter's completed ballot has been counted, or, if the ballot cannot be counted, a notification of the reason why the ballot could not be counted and instructions of any steps that the voter can take in order to have the ballot counted.

(6) A reminder of the deadline for the voter to return the voter's ballot if the county elections official has not received a voter's completed ballot by specified dates as determined by the county elections official.

(b) The Secretary of State shall make the system maintained pursuant to subdivision (a) available for use by each county. A county elections official may use the system for the purpose of complying with Section 3019.5.

SEC. 5. Section 3020 of the Elections Code is amended to read:

3020. (a) All vote by mail ballots cast under this division shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day.

(b) Notwithstanding subdivision (a), any vote by mail ballot cast under this division shall be timely cast if it is received by the voter's elections official via the United States Postal Service or a bona fide private mail delivery company no later than seven days after election day and either of the following is satisfied:

(1) The ballot is postmarked on or before election day or is time stamped or date stamped by a bona fide private mail delivery

company on or before election day, or it is otherwise indicated by the United States Postal Service or a bona fide private mail delivery company that the ballot was mailed on or before election day.

(2) If the ballot has no postmark, a postmark with no date, or an illegible postmark, and no other information is available from the United States Postal Service or the bona fide private mail delivery company to indicate the date on which the ballot was mailed, the vote by mail ballot identification envelope is date stamped by the elections official upon receipt of the vote by mail ballot from the United States Postal Service or a bona fide private mail delivery company, and is signed and dated pursuant to Section 3011 on or before election day.

(c) For purposes of this section, “bona fide private mail delivery company” means a courier service that is in the regular business of accepting a mail item, package, or parcel for the purpose of delivery to a person or entity whose address is specified on the item.

SEC. 6. Section 3025.5 is added to the Elections Code, to read:

3025.5. (a) (1) A county that does not conduct an election pursuant to either Section 4005 or 4007 shall provide at least two vote by mail ballot drop-off locations within the jurisdiction where the election is held or at least one vote by mail ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more vote by mail ballot drop-off locations.

(2) Notwithstanding paragraph (1), for a jurisdiction with fewer than 30,000 registered voters, at least one vote by mail ballot drop-off location shall be provided. The elections official shall make a reasonable effort to provide a vote by mail ballot drop-off location in the jurisdiction where the election is held.

(b) A vote by mail ballot drop-off location provided for under this section consists of a secure, accessible, and locked ballot box located as near as possible to established public transportation routes and that is able to receive voted ballots. All vote by mail ballot drop-off locations shall be open at least during regular business hours beginning not less than 28 days before the day of the election, and on the day of the election.

(c) At least one vote by mail ballot drop-off location shall be an exterior drop box that is available for a minimum of 12 hours per day.

(d) For the purposes of this section, “vote by mail ballot drop-off location” has the same meaning as in Section 3025.

SEC. 7. Section 15101 of the Elections Code is amended to read:

15101. (a) Any jurisdiction in which vote by mail ballots are cast may begin to 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 pursuant to Section 3019 and updating voter history records.

(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the 29th 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, including processing write-in votes so that they can be tallied by the machine, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

(c) 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.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2021

Governor