



November 4, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative (A.G. File No. 21-0021) related to voting in California.

BACKGROUND

Administration of Elections in California. Generally, elections are administered by county election officials. County election officials' duties include registering voters, maintaining an accurate list of registered voters in the county, sending ballots and other election materials to voters, facilitating in-person voting, receiving and tabulating cast ballots, facilitating a process for voters to cure ballots that otherwise could not be counted (for example, because a signature could not be verified), and certifying final election results. The Secretary of State provides statewide oversight over the administration of elections in California. Among its many duties, the Secretary of State's responsibilities include maintaining the state's statewide voter registration system, known as VoteCal; providing guidance to local election officials on how to implement state and federal law; and facilitating statewide maintenance of the list of registered voters.

Registering to Vote in California. In order to vote in an election in California, residents must register to vote in the county in which they reside. To register to vote, a person must be a U.S. citizen, a resident of California, at least 18 years old, and not currently be incarcerated or found mentally incompetent to vote by a court. As of August 30, 2021, of the 24.8 million people who were eligible to vote in California, 22.1 million were registered to vote. People can register to vote through the Secretary of State's website, in person at their county election official's office, through the mail, or at the Department of Motor Vehicles. The registration form includes a field for voters to provide their California driver's license number, a California identification card number, or the last four digits of their Social Security number.

Maintenance of Voter Rolls. A voter roll is the list of people who are registered to vote and is maintained through VoteCal. Both county and state election officials regularly maintain the voter rolls. Examples of statewide maintenance of the voter rolls include the Secretary of State


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regularly cross referencing the statewide list of registered voters with death records provided by the California Department of Public Health to remove from the list any voters who are deceased, and data from the California Department of Corrections and Rehabilitation to remove from the list any voters who are incarcerated. Similarly, examples of county election officials maintaining the voter rolls include regularly cross referencing the list of registered voters with death records provided by county public health offices and court records identifying people who are incarcerated or who have been deemed by the court to be mentally incompetent to vote.

Voting in California. Under recently enacted legislation, Chapter 312 of 2021 (AB 37, Berman), all voters in California receive a vote by mail (VBM) ballot. Voters can choose to vote by filling out and putting their VBM ballot in the mail, dropping the VBM ballot off at a ballot drop off location, or casting a ballot in person at a voting location. If a voter chooses to vote in person, they must sign a list of registered voters prior to voting. If the voter chooses to not cast a ballot in person and instead drops a VBM ballot in the mail or at a drop off location, they must sign the official envelope in which they send their ballot.

VBM Signature Verification. The envelope that accompanies a VBM ballot is unique to the particular voter. After county election officials receive the VBM ballot, before the envelope is opened, election officials verify the signature of the voter on the outside of the envelope. State law outlines the signature verification process and specifies that exact matches between the signature on the envelope and the signature on file is not required. Rather, similar characteristics between the signature being compared and any signature in the voter's registration record are sufficient to determine a signature is valid. Once the signature has been verified, election officials open the envelope, extract the ballot, and the voter's selections are tabulated. If the signature cannot be verified, state law outlines a process for county election officials to contact voters in order to give them an opportunity to verify their signature.

Identification Requirements to Vote in California. Other than signature verification on VBM ballot envelopes, or signing the list of registered voters when voting in person, voters in California generally are not required to show identification in order to cast a ballot. If, however, voters do not include a driver's license number, California identification number, or the last four digits of their Social Security number on their voter registration form, they can be asked to present identification to prove their identity when voting for the first time. Examples of acceptable forms of identification in these instances include photo identification cards (for example, a passport, a driver's license, a state identification card, or a student identification card) and certain types documents with the voter's name (for example, a copy of a recent utility bill, the sample ballot booklet the voter received from their county elections office, or another document sent to the voter by a government agency).

PROPOSAL

Require Voters to Provide a Full Social Security Number. The measure would require voters to provide a valid full Social Security number to verify their eligibility when initially registering to vote and to verify their existing voter registration.

Require Voters Present Identification to Vote. When voting in person, the measure would require voters to present a valid driver's license or other government-issued identification card. If voting using a VBM ballot, the measure would require (1) voters to provide a valid driver's license or other government-issued identification card number and (2) that the voter's signature on the VBM envelope matches the signature on file with their voter registration. (The measure does not define what constitutes a government-issued identification card.) If a voter could not verify their identity when they cast their ballot, the measure would allow the voter to provide the necessary verification up to two days before the election is certified (state law requires election officials to certify election results within 30 days of an election).

Impose Requirements on How County Election Officials Maintain Voter Rolls. The measure specifies that each county would (1) maintain an accurate list of eligible voters, (2) implement a process to verify that an individual is eligible to vote, (3) utilize any government database to maintain an accurate voter registration list, and (4) remove from the voter roll any individual who is no longer eligible to vote or no longer resides at the address given on their voter registration on file.

Require County Election Officials to Evaluate Wait Times. The measure would require county election officials to evaluate wait times for voting in person in each election. The measure would require that these reports be made public and include actions the county intends to take, consistent with federal law, to address any unreasonably long wait times.

Legislative Action Would Be Required Under the Measure. The Legislature would need to enact a statutory framework in order for the measure to be implemented. For example, the Legislature would need to define in statute what types of government-issued identification cards could be used and whether anyone could be exempted from the requirement.

FISCAL EFFECTS

Measure Potentially Violates Federal Law. Federal law prohibits state and local governments from denying any individual any right, benefit, or privilege provided by law because the individual refuses to share their Social Security number. By requiring people to provide their full Social Security number in order to be eligible to vote, the measure may violate federal law. Without a severability clause, it is possible that a court could prohibit the entire measure from taking effect. The below analysis of the fiscal effects of the measure assumes that the measure is allowed to take effect.

Increased Secretary of State Operational Costs. If this measure were approved, the Secretary of State likely would incur increased operational costs. These increased costs would result from activities such as modifying VoteCal to comply with the measure, revising existing regulations, promulgating new regulations, issuing guidance to counties, and conducting outreach to voters. The extent of these costs largely would depend on how the Legislature implements the provisions of the measure and any changes in the number of registered voters resulting from the measure.

Increased County Operational Costs. Counties would face a number of increased costs to implement the measure. These increased costs would result from activities such as increasing

outreach to voters, modifying information technology systems that interface with VoteCal, managing the study of wait times at voting locations (either using county staff or contracting out the job), training staff, and potentially more workload related to managing compliance with identification requirements. The extent of these costs would depend on (1) how the Legislature implements the provisions of the measures, (2) any changes in the number of registered voters resulting from the measure, and (3) voter turnout in elections following the enactment of the measure.

Summary of Fiscal Impacts. We estimate that the measure would have the following fiscal effects:

- One-time state and local government costs in the millions of dollars to update voter registrations. Increased annual state and local government costs, potentially in the tens of millions of dollars, to administer elections.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance

