

## RESOLUTION 06-09-2007

### DIGEST

#### Elections: Vote by Mail

Adds Elections Code section 4500 et seq. to establish a uniform statewide vote-by-mail process.

### RESOLUTIONS COMMITTEE RECOMMENDATION

#### APPROVE IN PRINCIPLE

#### History:

No similar resolutions found.

#### Reasons:

This resolution adds Elections Code section 4500 et seq. to establish a uniform statewide vote-by-mail process. This resolution should be approved in principle because it provides a convenient mechanism for greater numbers of registered voters to exercise their right to vote at reduced costs to the State while safeguarding personal security and vote integrity.

Based on feedback from some municipal elections in California, and relying heavily on Oregon's experience in implementing a statewide vote-by-mail system, it has been shown that voting by mail reduces costs associated with staffing polling places and managing poll centers by 30%. Though a limited number of centrally located polling stations will still be open for those members of the public who prefer to physically cast a ballot, estimates show that the voting public prefers the convenience of the voting by mail. A University of Oregon poll found that 81% of Oregonians prefer to vote by mail than using traditional polling places for elections.

Voting by mail also has the advantage of significantly reducing voter intimidation, in which inexperienced or minority voters are demanded to show state-issued identification prior to being allowed entry to polling stations or are redirected to false polling stations. Voting by mail also helps eliminate other unscrupulous practices such as the dissemination of information encouraging voters to appear at the polls on incorrect dates.

According to the California Secretary of State, Californians have increasingly exercised the option of voting by mail since the Secretary of State removed the requirement for justifications on requests for absentee ballots. This fact shows that there is a great amount of public confidence in the vote-by-mail scheme. There are safeguards currently in place to catch or avoid voter fraud, to verify signatures and to maintain the requisite paper trail to ensure all absentee voters receive a fair and reliable opportunity to cast their ballot. The vote-by-mail system proposed by this resolution extends these systems to a statewide procedure that encourages vote-by-mail to be the rule rather than the exception.

### TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to add Section 4500 et seq to the Elections Code to read as follows:

1 §4500.

2 The Legislature finds and declares all of the following: Many elections have been  
3 held by mail, from local ballot initiatives to contests for federal office. In 2001, California  
4 enacted “no excuse” absentee voting, allowing any voter to sign up to vote-by-mail for any  
5 reason. Since that time, voting by mail in California has dramatically increased. Absentee  
6 ballots accounted for 27% of the votes cast in 2002, 33% of the votes cast in 2004, and 47%  
7 of the votes cast in the 2006 primary election. In states that have tried voting by mail, voter  
8 turnout has increased. In Oregon, a state that has conducted all elections by mail since 1998,  
9 86% percent of those registered to vote, voted by mail in the 2004 general election. A 2003  
10 poll conducted by the University of Oregon found that 81 percent of Oregonians prefer vote-  
11 by-mail to polling place elections. The cost of a vote-by-mail election is nearly 30 percent  
12 less than the cost of a polling place election. There is no need to transport equipment to  
13 polling stations and to hire and train poll workers. Oregon has reduced its election-related  
14 costs by 30 percent since implementing vote-by-mail. Voting by mail is convenient because  
15 it allows voters to vote according their own schedules, eliminates long lines at polling  
16 places, eliminates accessibility problems for disabled and/or elderly voters, and eliminates  
17 any confusion about where to vote. Voting by mail creates a more informed voting public  
18 because individuals receive ballots several days in advance giving them an opportunity to  
19 meaningfully study the issues and candidates, to get questions answered, and to clarify any  
20 points of confusion in a way that is not possible in a voting booth. Finally, voting by mail is  
21 a secure and reliable means of voting. Vote-by-mail creates a paper trail allowing votes to  
22 be recounted; eliminates voter fraud because no vote is processed or counted until a trained  
23 election official is satisfied that the signature on the ballot matches the signature on the  
24 voter's registration card; and reduces the risk of voter intimidation. Thus, it is the intent of  
25 the Legislature to establish a statewide voting by mail.

26  
27 §4501.

28 (a) All counties in the State of California shall provide the voters in that county, for  
29 any local, special, primary, or general election to be held in the county not later than January  
30 1, 2008, with ballots that may be returned by mail.

31  
32 §4502.

33 (a) An elections official shall mail by nonforwardable mail an official ballot with a  
34 return identification envelope and a secrecy envelope no sooner than the 29th day before the  
35 date of an election conducted by mail and no later than the 14th day before the date of the  
36 election, to each voter in the precinct who is registered as of the 29th day prior to the  
37 election.

38 (b) An elections official shall mail by nonforwardable mail an official ballot with a  
39 return identification envelope and a secrecy envelope no later than three days before the  
40 election to any voter who is registered as of the 15th day prior to the election.

41  
42 §4503.

43 All of the following apply to a vote-by-mail election held on the date of a primary  
44 election:

45 (a) The elections official shall mail the official ballot of a major qualified political  
46 party to each voter who is registered as being affiliated with the major qualified political  
47 party as of the 29th day before the date of the election.

48 (b) A voter who is not affiliated with any political party shall be mailed the ballot of  
49 a qualified political party in whose primary election the voter wishes to vote if the voter has  
50 applied to the elections official, pursuant to Section 3205.

51  
52 §4504.

53 The voting instructions or voter information pamphlet shall contain the following  
54 warning: "Any person who, by use of force or other means, unduly influences a voter to  
55 vote in any particular manner or to refrain from voting, is subject, upon conviction, to  
56 imprisonment or to a fine, or both, as provided in Chapter 6 (commencing with Section  
57 18500) of Division 18 of the Elections Code."

58  
59 §4505.

60 (a) On the receipt of any ballot described in this division, the voter shall mark the  
61 ballot, sign and return the identification envelope supplied with the ballot, and comply with  
62 the instructions provided with the ballot.

63 (b) The voter may return the marked ballot using any of the following methods:

64 (1) By mail, with the postage paid, provided that the ballot is received by the  
65 elections official no later than the close of the polls on the date of the election.

66 (2) By depositing the ballot at the office of the elections official.

67 (3) By depositing the ballot at any other place designated by the elections official for  
68 the return of ballots.

69 (c) The ballot shall be returned in the return identification envelope.

70  
71 §4506.

72 The elections official shall provide, at any location where ballots are issued, suitable  
73 compartments, shelves, or tables at which voters may mark their ballots. The arrangement of  
74 the compartments, shelves, or tables shall ensure that the voter may conveniently mark the  
75 ballot with absolute secrecy. The compartments, shelves, or tables shall be available during  
76 the entire time that the ballots are issued.

77  
78 §4507.

79 (a) The elections official shall send a second vote-by-mail ballot to any voter upon  
80 receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or  
81 destroyed his or her original ballot.

82 (b) The elections official shall keep a record of each absent voter ballot sent to, and  
83 received from, a voter and shall verify, prior to counting any duplicate ballot, that the voter  
84 has not attempted to vote twice. If it is determined that the voter has attempted to vote twice,  
85 both ballots shall be void.

86  
87 §4508.

88 (a) A vote-by-mail ballot shall be counted only if the all of the following  
89 requirements are met:

90 (1) The ballot is returned in the return identification envelope.

91           (2) The envelope is signed by the voter to whom the ballot is issued.  
92           (3) The signature is verified pursuant to subdivision (b).  
93           (b) The elections official shall compare the signature of each voter on the return  
94 identification envelope with the signature on the voter's registration card, according to  
95 procedures established in rules adopted by the Secretary of State, and verify that the  
96 signatures match.  
97  
98   §4509.  
99           The elections official shall keep open for public inspection a list, by voter name, of  
100 all vote-by-mail ballots that have been received.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of San Francisco

#### STATEMENT OF REASONS

Existing Law: Registered voters in California may only vote by mail if they take the initiative of applying to the county elections office a week in advance to vote by absentee ballot.

This Resolution: This proposal would allow for statewide voting by mail. Voting by mail has several advantages over voting at polling stations or requiring voters to affirmatively apply to vote by absentee ballot.

First, vote-by-mail increases voter turnout. In states that have tried voting by mail, voter turnout has increased. In Oregon, a state that has conducted all elections by mail since 1998, 86% percent of registered voters voted by mail in the 2004 general election. A 2003 poll conducted by the University of Oregon found that 81 percent of Oregonians prefer vote-by-mail to polling place elections.

Second, vote-by-mail costs 30 percent less than the cost of a polling place election. There is no need to transport equipment to polling stations and to hire and train poll workers. Oregon has reduced its election-related costs by 30 percent since implementing vote-by-mail.

Third, vote-by-mail is convenient because it allows voters to vote according to their own schedules, eliminates long lines at polling places, eliminates accessibility problems for disabled and/or elderly voters, and eliminates any confusion about where to vote.

Fourth, voting by mail creates a more informed voting public because individuals receive ballots several days in advance giving them an opportunity to meaningfully study the issues and candidates, to get questions answered, and to clarify any points of confusion in a way that is not possible in a voting booth.

Finally, vote-by-mail is a secure and reliable means of voting. Vote-by-mail creates a paper trail allowing votes to be recounted; eliminates voter fraud because no vote is processed or counted until a trained election official is satisfied that the signature on the ballot matches the signature on the voter's registration card; and reduces the risk of voter intimidation.

The Problem: Currently, registered voters in California must either vote at a polling place or take the affirmative action of applying to vote by absentee ballot. There are many problems with voting at polling places, including voter fraud, voter intimidation, understaffed polling stations, broken polling machines, inaccessibility to disabled and/or elderly voters, inconvenience, and expense. Requiring voters to affirmatively apply for an absentee ballot in order to vote by mail is also inconvenient. This resolution is similar to Assembly Bill 867 (Liu) calling for a vote-by-mail pilot project, which was introduced in the 2005 Legislative session, but did not pass.

#### IMPACT STATEMENT

This resolution would require repealing Election Code Division 4, Chapters 1 and 2 (commencing with Section 4000 et seq. and 4100 et seq.) (regarding conditions and conduct for mail ballot elections); and Section 1500 (regarding mailed ballot election dates). This resolution does not affect any other law, statute or rule.

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