

Senate Bill No. 423

CHAPTER 31

An act to add and repeal Chapter 7 (commencing with Section 1600) of Division 1 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 2020. Filed with Secretary
of State August 6, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 423, Umberg. November 3, 2020, statewide general election.

Existing law authorizes counties, on or after specified dates, to conduct any election as an all-mailed ballot election if, among other conditions, the county elections official provides for ballot drop-off locations and vote centers meeting minimum requirements. Vote centers are required to be open from the 10th day before the election until election day, as specified.

This bill would authorize a county for the November 3, 2020, statewide general election to not have its vote centers open before the 3rd day prior to the election.

In counties without all-mailed ballot procedures, existing law requires the elections official to divide the jurisdiction into precincts meeting certain requirements and to designate a polling place for each precinct.

This bill would provide an alternative procedure for the November 3, 2020, statewide general election authorizing the elections official to establish consolidated precinct boards, located within the same physical polling place, serving the voters residing in multiple adjacent precincts, as provided.

For the November 3, 2020, statewide general election, the bill would also (1) require elections officials to conduct a voter education and outreach campaign, (2) urge counties to provide drive-through ballot drop-off or voting locations, (3) authorize elections officials to establish vote centers, polling places, or consolidated polling places in locations whose primary purpose is the sale and dispensation of alcoholic beverages, (4) require the Secretary of State to establish a process to consider requests from counties to adjust or partially waive the minimally required number, location, or operational duration, of vote centers, consolidated polling places, or ballot drop-off locations, (5) require the Secretary of State to conduct a statewide voter education and outreach campaign regarding new procedures in place for the election, and (6) require the Secretary of State to establish a strike team to assist counties as needed to acquire suitable locations for vote centers, polling places, and consolidated polling places as well as other assets necessary for the safe and successful conduct of the election.

By imposing new requirements on counties, the 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.

This bill would declare that it is to take effect immediately as an urgency statute.

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

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

(1) To maintain a healthy democracy in California, it is important to encourage eligible voters to vote and to ensure that residents of the state have the tools needed to participate in every election.

(2) When California conducts the November 3, 2020, statewide general election, it is unknown to what degree the COVID-19 pandemic will still pose a threat to public health. The state and its counties need to begin taking action now to procure supplies and equipment, secure voting locations, enlist volunteers, and draw up plans, among other steps, to ensure that the November 3, 2020, statewide general election is held in a manner that is accessible, secure, and safe.

(3) To preserve public health in the face of the threat of COVID-19, and to ensure that the November election is accessible, secure, and safe, all Californians will be empowered to vote by mail, from the safety of their own homes, pursuant to Governor Newsom's Executive Order N-64-20, issued on May 8, 2020, and as proposed by Assembly Bill 860 of the 2019–20 Regular Session.

(4) However, many Californians will still need access to in-person voting opportunities, including, but not limited to, individuals with disabilities, individuals who speak languages other than English, individuals experiencing homelessness, individuals who never received their vote-by-mail ballot, lost or damaged their ballot, or need to register to vote, as well as others who may find vote-by-mail less accessible than in-person voting. We owe these Californians safe in-person voting opportunities this November.

(b) It is the intent of the Legislature in enacting this act to do all of the following:

(1) To ensure that the November 3, 2020, statewide general election is conducted in a manner that protects and strengthens access for low-propensity voters and voters who have no history of voting by mail, first-time voters such as young voters and newly naturalized voters, housing insecure voters, and other voters who may be disproportionately impacted by the changes to election procedures that were necessitated by the COVID-19 pandemic.

(2) To ensure that safe, in-person voting opportunities are available this November in a manner that is consistent with public health guidance and requirements.

(3) To provide flexibility to counties in conducting the election in recognition of the challenges to election administration posed by the COVID-19 pandemic, while limiting changes to in-person voting opportunities to the minimum changes necessary to ensure that the election can be conducted in a manner consistent with public health requirements.

(4) To redirect any money that is saved from a reduction of in-person voting locations into voter education and outreach for the November 3, 2020, statewide general election.

SEC. 2. Chapter 7 (commencing with Section 1600) is added to Division 1 of the Elections Code, to read:

CHAPTER 7. NOVEMBER 3, 2020, STATEWIDE GENERAL ELECTION

1600. This chapter applies only to the November 3, 2020, statewide general election.

1601. Notwithstanding Sections 4005 and 4007, a county that conducts the November 3, 2020, statewide general election pursuant to either of those sections is not required to have its vote centers open before the third day prior to the election.

1602. (a) A county that does not conduct the November 3, 2020, statewide general election pursuant to either Section 4005 or 4007 may choose to follow the procedures described in this section as an alternative to procedures that would otherwise be applicable in that county.

(b) (1) While maintaining separate geographical precincts under the existing limits on number of voters provided in Section 12223, the elections official may establish consolidated precinct boards, located within the same physical polling place, serving the voters residing in multiple adjacent precincts established pursuant to Section 12223 at a maximum ratio of one consolidated precinct board location for every 10,000 registered voters. These consolidated polling locations shall be open from Saturday, October 31, 2020, through Monday, November 2, 2020, for at least eight hours each day at regular hours convenient for members of the public. On the day of the election, the consolidated polling location shall be open from 7 a.m. to 8 p.m.

(2) In establishing the consolidated polling places, the elections official shall take into consideration the boundaries of state legislative, congressional, county supervisorial, and any other affected local legislative districts.

(3) The elections official shall ensure that the consolidated polling places are equitably distributed across the county to afford maximally convenient options for all voters and are established at accessible locations as near as possible to established public transportation routes. A consolidated polling place shall be located within the boundary of one of the precincts it serves.

(4) (A) The consolidated polling places shall be equipped with voting units or systems that are accessible to individuals with disabilities and 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. Each consolidated polling place shall have at least three voting machines that are accessible to voters with disabilities.

(B) The consolidated polling places shall comply 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.).

(5) The elections official shall provide each consolidated polling place with enough ballots, provisional ballots, and provisional ballot envelopes to ensure every voter can be accommodated, as necessary.

(c) (1) In a county with consolidated polling places as described in this section, the elections official shall provide at least two ballot drop-off locations within the county or at least one ballot drop-off location for every 15,000 registered voters, whichever results in more ballot drop-off locations. For purposes of this paragraph, a consolidated polling place that includes an exterior ballot drop box counts only as a single ballot drop-off location.

(2) A ballot drop-off location provided for under this subdivision 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 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.

(3) At least one ballot drop-off location shall be an exterior drop box that is available for a minimum of 12 hours per day. Because health directives to prevent the spread of COVID-19 may result in reduced access to some buildings, counties are encouraged to maximize the number of ballot drop-off locations that are exterior drop boxes or that are located in buildings, such as supermarkets or drugstores, that are likely to be considered essential businesses that will remain open to the public notwithstanding any physical distancing measures that are in place during the period beginning 28 days before the date of the election and ending on election day.

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

(d) (1) In a county with consolidated polling places as described in this section, the elections official shall provide at least one location, open at least during regular business hours beginning 28 days before the day of the election, at which a voter may do any of the following:

(A) Return, or vote and return, the voter’s vote by mail ballot.

(B) Register to vote, update the voter’s voter registration, and vote pursuant to Section 2170.

(C) Receive and vote a provisional ballot pursuant to Section 3016 or Article 5 (commencing with Section 14310) of Chapter 3 of Division 14.

(D) Receive a replacement ballot upon verification that a ballot for the same election has not been received from the voter by the county elections official. If the county elections official is unable to determine if a ballot for the same election has been received from the voter, the county elections official may issue a provisional ballot.

(E) Vote a regular, provisional, or replacement ballot using accessible voting equipment that provides for a private and independent voting experience.

(2) The elections official is urged to offer voters the ability to schedule an appointment to visit a location established pursuant to this subdivision.

(e) In determining the locations of consolidated polling places and ballot drop-off locations pursuant to this section, the county shall consider vote center and ballot drop-off location proximity to communities with historically low vote by mail usage. Counties shall also consider other criteria described in subparagraph (B) of paragraph (10) of subdivision (a) of Section 4005, to the extent data is readily available.

(f) Prior to finalizing the locations of consolidated polling places and ballot drop-off locations, the county elections official shall publicly notice in all legally required languages for that county the proposed consolidated polling place locations and ballot drop-off locations, shall post a copy of those locations on the elections official's internet website, and shall accept public comments on the proposed locations for at least 10 days after publicly noticing the proposed locations. Following the 10-day public comment period, the elections official shall consider any comments the official receives from the public, and shall adjust consolidated polling place and ballot drop-off locations in response to the public comments to the extent the official deems appropriate before finalizing the locations to be used as consolidated polling places and ballot drop-off locations.

1603. (a) Each county shall conduct a voter education and outreach campaign in all legally required languages for that county notifying voters about mail ballots, early voting opportunities, accessible voting options, and where and how to remedy any voting related problem.

(b) Each county is urged to provide drive-through ballot drop-off or voting locations. If a voter is waiting in a vehicle, the voter is considered "in line" for the purposes of keeping the polls open a sufficient time to enable them to vote pursuant to Section 14401.

(c) Notwithstanding Section 12288, an elections official may establish a vote center, polling place, or consolidated polling place in a location whose primary purpose is the sale and dispensation of alcoholic beverages.

1604. (a) (1) The Secretary of State shall establish a process to consider requests from counties to adjust or partially waive the minimally required number, location, or operational duration, of vote centers, consolidated polling places, or ballot drop-off locations described in Section 1602 or Sections 4005 and 4007. The process shall include, but not be limited to, review and modification, denial, or granting of a county's request in a

timeframe to be determined by the Secretary of State. The Secretary of State shall not grant a county a complete waiver of the minimally required number, location, or operational duration, of vote centers, consolidated polling places, or ballot drop-off locations described in Section 1602 or Sections 4005 and 4007.

(2) (A) Prior to requesting a modification or partial waiver pursuant to paragraph (1), a county shall develop a draft plan that includes, but is not limited to, a written analysis of in-person voting needs in that county. The written analysis shall identify how the county's proposed levels of in-person voting are designed to safely accommodate the anticipated demand for voting services at those locations, including in-person voting, ballot replacement, ballot drop-off, conditional voter registration, language assistance, and voting assistance, shall report on efforts made to secure the otherwise required number of vote centers, consolidated polling places, and election personnel, and shall include a discussion of how the elections official will ensure that there will not be a disparate impact on any protected class of voters with regard to availability of voting machines and voting locations. In determining in-person voting locations that will be made available pursuant to the plan, the county shall consider the needs of individuals who do not have a history of voting by mail and other criteria described in subparagraph (B) of paragraph (10) of subdivision (a) of Section 4005, to the extent data is readily available.

(B) The county elections official shall publicly notice in all legally required languages for that county the draft plan required by subparagraph (A), shall post a copy of the draft plan in all legally required languages for that county on the elections official's internet website, and shall accept public comments on the draft plan for at least 10 days after publicly noticing the draft plan.

(C) Following the 10-day review period required by subparagraph (B), the elections official shall consider any public comments the official receives from the public, shall amend the draft plan in response to the public comments to the extent the official deems appropriate, and may adopt a final plan and submit that plan to the Secretary of State along with the request for a modification or partial waiver pursuant to paragraph (1). The elections official shall post the county's request for a modification or partial waiver on the elections official's internet website, and the Secretary of State shall post a copy of the secretary's response on the secretary's internet website.

(3) A partial waiver or modification shall not be granted to a county unless the elections official in that county can demonstrate all of the following:

(A) The official made best efforts to secure the required in-person voting locations.

(B) The plan will not have a negative disparate impact on disabled voters or any protected class of voters.

(C) The plan will not reduce in-person voting locations below a number of locations necessary to safely and efficiently accommodate the anticipated demand for in-person voting services.

(4) For the purposes of this subdivision, “protected class” means a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).

(b) The Secretary of State shall conduct a statewide voter education and outreach campaign regarding new procedures in place for the November 3, 2020, statewide general election, including, but not limited to, procedures relating to voting by mail, newly consolidated polling places and services provided therein, available language assistance, voter registration, conditional voter registration and voting, and accessible vote by mail voting.

(c) The Secretary of State shall establish a strike team to assist counties as needed to acquire suitable locations for vote centers, polling places, and consolidated polling places as well as other assets necessary for the safe and successful conduct of the November 3, 2020, statewide general election. The strike team shall include members of the Secretary of State’s legal and investigative divisions as well as Deputy Attorneys General provided for this purpose by the Department of Justice. The strike team shall assist with the enforcement of this code, including, but not limited to, Article 5 (commencing with Section 12280) of Chapter 3 of Division 12 and Chapter 1 (commencing with Section 18000) of Division 18. In undertaking its responsibilities, the strike team shall seek to ensure that the November 3, 2020, statewide general election is conducted in a manner that is as consistent as possible with state and federal voting rights laws.

(d) The Secretary of State is encouraged to work with health officials, elections officials, and other stakeholders to establish guidelines for the use of personal protective equipment by individuals at in-person voting locations, including election workers, precinct board members, and voters. These guidelines may include, but are not limited to, requiring that individuals who are physically present at voting locations wear personal protective equipment when they are required by state or local health guidelines, ensuring that elections officials have sufficient personal protective equipment for use at in-person voting locations by election workers, precinct board members, and voters, and procedures to ensure that voters are not turned away from using in-person voting locations due to a lack of access to the necessary personal protective equipment.

1605. Notwithstanding any other law, a county may only hold the November 3, 2020, statewide general election in the manner provided for in this chapter if each registered voter is also mailed a vote by mail ballot.

1606. This chapter shall remain in effect only until January 1, 2021, and as of that date is repealed.

SEC. 3. 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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the November 3, 2020, statewide general election can be conducted safely and successfully, it is necessary for this act to take effect immediately.