

LEGISLATIVE DIGEST

[Municipal Elections Code - Expanded Vote-by-Mail for the November 3, 2020 Election - Voter's Choice Act]

Ordinance amending the Municipal Elections Code to require the Department of Elections to expand use of vote-by-mail ballots at the November 3, 2020, Consolidated General Election; to report to the Board of Supervisors regarding planning for that election; and to report to the Board regarding implementation of the Voter's Choice Act in future San Francisco elections.

Existing Law

Article XIII of the Charter and the Municipal Elections Code govern the conduct of San Francisco elections. San Francisco elections are also generally subject to the California Elections Code and federal laws, such as the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Sections 20901 et seq.).

California Elections Code Sections 3000-3026 and 3200-3206 address vote-by-mail voting. The Municipal Elections Code does not specifically address vote-by-mail procedures.

In 2016, the State enacted the Voter's Choice Act (SB 450), amending the Elections Code to authorize the use of an elections model that incorporates expanded use of vote-by-mail and greater opportunities for early voting through the use of ballot drop-off boxes and vote centers. As of January 1, 2020, any county in California can choose to adopt the Voter's Choice Act model for its elections. See Elec. Code § 4005(a). San Francisco has not adopted the Voter's Choice Act for its elections.

Amendments to Current Law

The proposed ordinance would require the Department of Elections ("Department") to expand the use of vote-by-mail voting for the November 3, 2020 Consolidated General Election ("Election"), to the extent not preempted or addressed by State or federal law. Subject to those limitations, this expansion would include informing all San Francisco households of the ability to register as vote-by-mail voters and sending all registered voters vote-by-mail ballots.

In expanding the use of vote-by-mail for the Election, to the extent not preempted or addressed by State or federal law, the proposed ordinance would require the Department to:

- to implement measures, in consultation with the Department of Public Health, to protect public health in the distribution and collection of vote-by-mail ballots, and in-person

- voting and ballot drop-off opportunities determined to be safe, especially for vulnerable populations of voters;
- to implement measures, in consultation with the Department of Public Health and the Department of Human Resources, to protect the health of the Department's employees and contractors, and employees of other City departments who may assist the Department with the Election;
 - to provide voters with disabilities with adequate facilities and opportunities to cast a ballot through vote-by-mail or alternative means, as required by the required by State and federal laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) and the Help America Vote Act of 2002 (52 U.S.C. Section 20901 et seq.); and
 - to conduct outreach to communities and neighborhoods with historically low voter turnout regarding the expansion of vote-by-mail for the Election, in consultation with the Office of Racial Equity and community-based organizations.

The proposed ordinance would also require the Department to submit a written report to the Board of Supervisors by June 30, 2020, regarding its plans for the Election. The Department would also submit a copy of the written report to the Elections Commission.

The proposed ordinance would also require the Department to submit a written report to the Board of Supervisors and Elections Commission by January 31, 2021, regarding the potential implementation of the Voter's Choice Act in San Francisco for future elections held in 2021 and later.

Background Information

On February 25, 2020, Mayor London Breed proclaimed a state of emergency based on coronavirus ("COVID-19"), and on March 4, 2020, Governor Gavin Newsom declared a state of emergency for California due to COVID-19.

In light of the COVID-19 crisis, on March 20, 2020, Governor Newsom issued Executive Order N-34-20 which directed special elections scheduled for the City of Westminster, the California 25th Congressional District, and the 28th State Senate District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety. On April 9, 2020, Governor Newsom issued Executive Order N-48-20 which similarly directed special elections scheduled for the City of Santa Ana, the City of Commerce, and the El Rancho Unified School District to be held as "all mail" elections with in-person voting options in a manner consistent with public health and safety.

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