

AMENDED IN ASSEMBLY APRIL 7, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 37**

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**Introduced by Assembly Members Berman, Cervantes, and  
Lorena Gonzalez**

*(Principal coauthor: Senator Umberg)*

**(Coauthor: Assembly Member Quirk)**

*(Principal coauthors: Senators Umberg and Allen)*

*(Coauthors: Assembly Members Quirk, Bennett, Kalra, Mayes, and  
Mullin)*

December 7, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law ~~required~~ *requires* county elections officials to mail a ballot to every registered voter for the November 3, 2020, statewide general election. Existing law, for the November 3, 2020, statewide general election, also ~~required~~ county elections officials to use a specified Secretary of State vote by mail tracking system or a system that meets the same specifications: *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 ~~these~~ *the* requirements to mail a ballot to every registered voter to all elections. ~~By requiring a county elections officials to mail a ballot to every registered voter, and to take other actions, this~~

~~bill would impose a state-mandated local program.~~ *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.*

*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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

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

3     3000.5. (a) Notwithstanding any other law, for ~~an election~~  
4 ~~proclaimed or conducted prior to January 1, 2022, each election,~~  
5 the county elections official shall, no later than 29 days before the  
6 day of the election, begin mailing the materials specified in Section  
7 3010 to every registered ~~voter in the county.~~ voter. The county  
8 elections official shall have five days to mail a ballot to each person  
9 who is registered to vote on the 29th day before the day of the  
10 election and five days to mail a ballot to each person who is  
11 subsequently registered to vote. The county elections official shall  
12 not discriminate against any region or precinct ~~in the county~~ in  
13 choosing which ballots to mail first within the prescribed five-day  
14 mailing period.

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

18     (c) Consistent with paragraph (2) of subdivision (a) of Section  
19 2226, this section does not require that the elections official mail  
20 a ballot to a voter with an inactive voter registration status.

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

22     ~~3016.5. (a) A county elections official shall permit a voter~~  
23 ~~with a disability to cast his or her ballot using a certified remote~~  
24 ~~accessible vote by mail system.~~

25     ~~(b) This section does not apply to a county when conducting an~~  
26 ~~all-mailed ballot election pursuant to Section 4005.~~

27     ~~(c) This section shall become operative on January 1, 2020, or~~  
28 ~~one year after the date on which the Secretary of State certifies a~~

1 ~~remote accessible vote by mail system pursuant to Chapter 3.5~~  
2 ~~(commencing with Section 19280) of Division 19, whichever is~~  
3 ~~later.~~

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

6 3016.7. ~~For the statewide general election to be held on~~  
7 ~~November 3, 2020, the~~ The county elections official shall permit  
8 any voter to cast a ballot using a certified remote accessible vote  
9 by mail system, regardless of whether the voter is a voter with  
10 disabilities or a military or overseas voter.

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

13 3019.7. (a) ~~Not later than January 1, 2020, the~~ The Secretary  
14 of State shall ~~establish~~ maintain a system ~~that a county elections~~  
15 ~~official may use~~ to allow a vote by mail voter to track the voter's  
16 vote by mail ballot through the mail system and as the vote by  
17 mail ballot is processed by the county elections official. A county  
18 elections official shall use this system unless the county makes  
19 available to voters a different vote by mail ballot tracking system  
20 that meets or exceeds the level of service provided by the Secretary  
21 of State's system. The system ~~established pursuant to this section~~  
22 shall, at a minimum, *be accessible to voters with disabilities and*  
23 allow a voter to register to receive information via email or text  
24 message from the county elections official about the status of the  
25 voter's vote by mail ballot, including all of the following  
26 information:

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

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

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

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

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

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

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

9 ~~(e) The Secretary of State shall use funds provided to the state  
10 pursuant to the federal Help America Vote Act of 2002 (52 U.S.C.  
11 Sec. 20901 et seq.) to develop the system described in this section.  
12 The Secretary of State shall implement this section only to the  
13 extent that these funds are available.~~

14 ~~(d) For an election proclaimed or conducted prior to January 1,  
15 2022, the county elections official shall use the system established  
16 by the Secretary of State pursuant to subdivision (a), unless the  
17 county makes available to voters a different vote by mail ballot  
18 tracking system that meets or exceeds the level of service provided  
19 by the Secretary of State's system.~~

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

21 3020. (a) All vote by mail ballots cast under this division shall  
22 be received by the elections official from whom they were obtained  
23 or by the precinct board no later than the close of the polls on  
24 election day.

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

30 (1) The ballot is postmarked on or before election day or is time  
31 stamped or date stamped by a bona fide private mail delivery  
32 company on or before election ~~day~~ *day, or it is otherwise indicated*  
33 *by the United States Postal Service or a bona fide private mail*  
34 *delivery company that the ballot was mailed on or before election*  
35 *day.*

36 (2) If the ballot has no postmark, a postmark with no date, or  
37 an illegible postmark, *and no other information is available from*  
38 *the United States Postal Service or the bona fide private mail*  
39 *delivery company to indicate the date on which the ballot was*  
40 *mailed*, the vote by mail ballot identification envelope is date

1 stamped by the elections official upon receipt of the vote by mail  
2 ballot from the United States Postal Service or a bona fide private  
3 mail delivery company, and is signed and dated pursuant to Section  
4 3011 on or before election day.

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

10 (d) Notwithstanding subdivisions (a) and (b), for the statewide  
11 general election to be held on November 3, 2020, any vote by mail  
12 ballot cast under this division shall be timely cast if it is received  
13 by the voter’s elections official via the United States Postal Service  
14 or a bona fide private mail delivery company by the 17th day after  
15 election day and either of the following is satisfied:

16 (1) The ballot is postmarked on or before election day, is time  
17 stamped or date stamped by a bona fide private mail delivery  
18 company on or before election day, or it is otherwise indicated by  
19 the United States Postal Service or a bona fide private mail delivery  
20 company that the ballot was mailed on or before election day.

21 (2) If the ballot has no postmark, a postmark with no date, or  
22 an illegible postmark, and no other information is available from  
23 the United States Postal Service or the bona fide private mail  
24 delivery company to indicate the date on which the ballot was  
25 mailed, the vote by mail ballot identification envelope is date  
26 stamped by the elections official upon receipt of the vote by mail  
27 ballot from the United States Postal Service or a bona fide private  
28 mail delivery company, and is signed and dated pursuant to Section  
29 3011 on or before election day.

30 *SEC. 6. Section 15101 of the Elections Code is amended to*  
31 *read:*

32 15101. (a) Any jurisdiction in which vote by mail ballots are  
33 cast may begin to process vote by mail ballot return envelopes  
34 beginning 29 days before the election. Processing vote by mail  
35 ballot return envelopes may include verifying the voter’s signature  
36 on the vote by mail ballot return envelope pursuant to Section 3019  
37 and updating voter history records.

38 ~~(b) (1) Any jurisdiction having the necessary computer~~  
39 ~~capability may start to process vote by mail ballots on the 15th~~  
40 ~~business day before the election. Processing vote by mail ballots~~

1 includes opening vote by mail ballot return envelopes, removing  
2 ballots, duplicating any damaged ballots, and preparing the ballots  
3 to be machine read, or machine reading them, including processing  
4 write-in votes so that they can be tallied by the machine, but under  
5 no circumstances may a vote count be accessed or released until  
6 8 p.m. on the day of the election. All other jurisdictions shall start  
7 to process vote by mail ballots at 5 p.m. on the day before the  
8 election.

9 (2) ~~For the statewide general election to be held on November~~  
10 ~~3, 2020, any~~

11 (b) Any jurisdiction having the necessary computer capability  
12 may start to process vote by mail ballots on the 29th day before  
13 the election. Processing vote by mail ballots includes opening vote  
14 by mail ballot return envelopes, removing ballots, duplicating any  
15 damaged ballots, and preparing the ballots to be machine read, or  
16 machine reading them, including processing write-in votes so that  
17 they can be tallied by the machine, but under no circumstances  
18 may a vote count be accessed or released until 8 p.m. on the day  
19 of the election. All other jurisdictions shall start to process vote  
20 by mail ballots at 5 p.m. on the day before the election.

21 (c) Results of any vote by mail ballot tabulation or count shall  
22 not be released before the close of the polls on the day of the  
23 election.

24 *SEC. 7. If the Commission on State Mandates determines that*  
25 *this act contains costs mandated by the state, reimbursement to*  
26 *local agencies and school districts for those costs shall be made*  
27 *pursuant to Part 7 (commencing with Section 17500) of Division*  
28 *4 of Title 2 of the Government Code.*

29 **SECTION 1.** ~~Section 3000.5 of the Elections Code is amended~~  
30 ~~to read:~~

31 ~~3000.5.—(a) Notwithstanding any other law, for each election,~~  
32 ~~the elections official shall, no later than 29 days before the day of~~  
33 ~~the election, begin mailing the materials specified in Section 3010~~  
34 ~~to every registered voter. The elections official shall have five days~~  
35 ~~to mail a ballot to each person who is registered to vote on the 29th~~  
36 ~~day before the day of the election and five days to mail a ballot to~~  
37 ~~each person who is subsequently registered to vote. The elections~~  
38 ~~official shall not discriminate against any region or precinct in~~  
39 ~~choosing which ballots to mail first within the prescribed five-day~~  
40 ~~mailing period.~~

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

4 ~~(c) Consistent with paragraph (2) of subdivision (a) of Section~~  
5 ~~2226, this section does not require that the elections official mail~~  
6 ~~a ballot to a voter with an inactive voter registration status.~~

7 ~~SEC. 2. Section 3019.7 of the Elections Code is amended to~~  
8 ~~read:~~

9 ~~3019.7. (a) The Secretary of State shall maintain a system to~~  
10 ~~allow a vote by mail voter to track the voter's vote by mail ballot~~  
11 ~~through the mail system and as the vote by mail ballot is processed~~  
12 ~~by the county elections official. A county elections official shall~~  
13 ~~use this system unless the county makes available to voters a~~  
14 ~~different vote by mail ballot tracking system that meets or exceeds~~  
15 ~~the level of service provided by the Secretary of State's system.~~  
16 ~~The system shall, at a minimum, allow a voter to register to receive~~  
17 ~~information via email or text message from the county elections~~  
18 ~~official about the status of the voter's vote by mail ballot, including~~  
19 ~~all of the following information:~~

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

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

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

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

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

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

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



1     ~~SEC. 3.—If the Commission on State Mandates determines that~~  
2 ~~this act contains costs mandated by the state, reimbursement to~~  
3 ~~local agencies and school districts for those costs shall be made~~  
4 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
5 ~~4 of Title 2 of the Government Code.~~

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7 \_\_\_\_\_

8 **REVISIONS:**  
9 **Heading—Lines 3 and 4.**

10 \_\_\_\_\_

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