Markup of Election Code to be recommended for update

11/9/2021   as edited in the initial working group material

11/11   with additions to fill out the markup for the materials shown to the full committee in the same style (to see the table of contents in Google, open the left sidebar)

11/15   additions during workgroup meeting

11/16   completed notes from workgroup meeting, adding provision for multilingual ballots in 13202 (better here than in 13231)

In the markup text

~~Text to be removed~~ and <u>text to be added.</u> Specified or recommended text is indented for clarity.

Type size summary recommendations

This chart is included for convenience and to see where these requirements are in the code.

Section	Text size - **at least:**	Text element	How this changed
13203	16 point bold	Official Ballot	Was 30 point bold all caps
13261	12 point bold	Official Ballot [on the stub]	12 point all caps bold
13203	14 point bold	Name of election/party for primary	Was 18 point bold all caps
13203	12 point	Election date	As large a possible
13203	8 point	Name of county (if not a seal/logo)	As large as possible
13204	10 point	Instructions at top of ballot	Same - 10 point
13205	[9 point]*	Presidential instructions	No type size given
13206	[9 point]*	Party, voter-nom. & nonpartisan	No type size given
13210	10 point bold	Presidential contest heading	Was 12 point bold
13210	10 point bold	Contests: office title heading	Was 8 point bold
13210	[9 point bold]*	Vote for …	No type size given
12311 13202	10 point bold Multilingual, if needed 8 point bold	Names of candidates	Was 8 point bold caps
13105	8 point	Designation	No type size given

 * Not included in the requirements for these recommendations

13105

(a) In the case of a candidate for a voter-nominated office in a primary election, a general election, or a special election to fill a vacancy in the office of United States Senator, Member of the United States House of Representatives, State Senator, or Member of the Assembly, immediately ~~to the right of and on the same line as~~ following the name of the candidate, or immediately below the name if there is not sufficient space on the same line ~~to the right of the name~~, there shall be identified in at least 8 point type, as specified by the Secretary of State, the designation made by the candidate pursuant to Section 8002.5 The identification shall be in substantially the following form:[continues without change]

> Justification: Adding a minimum text size in a hierarchical relationship to the other type sizes.

13200

Ballots not printed in ~~accordance~~ *substantial compliance* with this chapter shall not be cast nor counted at any election.

> Justification: Counties sometimes need to make technical changes that do not conform to Elections Code but that make ballots readable and understandable. Softening this requirement should reduce the chance of a lawsuit against counties.

13202

(a) All ballots of the same sort prepared by any county elections official, clerk or secretary of a legislative body, or other person having charge of preparing ballots for the same polling place, shall be precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with ink of the same tint, so that without the numbers on the stubs it is impossible to distinguish any one of the ballots from the other ballots of the same sort.

(b) The names of all candidates printed upon the ballot shall be in type of the same size and character. If there is not sufficient space for a candidate name, the size may be adjusted as close as possible to the size and character of all the other candidate names printed upon the ballot.

(c) For multilingual ballots, if there is not sufficient space for candidate names in all languages at the size required in 13211, the size be uniformly adjusted to be to a minimum of 8 points.

> Justification: Adjusting the type sizes to work for multilingual ballot, when necessary, while still being easy to read.

13203

~~Across~~ At the top of the first page of the ballot shall be printed in ~~boldface capital type not smaller than 30 point,~~ in at least 16 point bold type, the words ~~"OFFICIAL BALLOT."~~ "Official Ballot" Beneath this heading, the name of the election shall be printed in at least 14 point bold type and, in the case of a

partisan primary election, ~~shall be printed in 18-point boldface capital type~~ the official party designation or the words ~~"NONPARTISAN BALLOT"~~ "Nonpartisan Ballot" as applicable. Beneath the heading line or lines, there shall be printed, ~~in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.~~ in at least 12 point type the date of the election and in at least 8 point type the name of the county in which the ballot is to be voted. The county name may alternatively be displayed in the county seal or logo. In addition the ballot shall have printed at the top or or bottom of each card, a ballot style identifier **or** some other means of identifying the number of the congressional, Senate, and Assembly district.
(Amended by Stats. 2019, Ch. 863, Sec. 6. (AB 623) Effective January 1, 2020.)

> Justification: Adjusting the type sizes to work for multilingual ballots and other ballot designs in use, while still being easy to read. Note: Need to find the citation for election names to cross-reference.

13204

(a) The instructions to voters shall be printed below the ballot identification and above the contests to be voted on, or the first column or the ballot, with no contests placed below the instructions. The instructions shall be in at least 10 point type and be in an area clearly separated from the ballot contests.

(b) The instructions shall be written in plain language to communicate the following information: How to vote for a candidate or in a contest with Yes/No options, how to write in a candidate, and what to do if you make a mistake.

The instructions may also include warnings and checks to help voters mark their ballot correctly and avoid errors. Instructions for specific types of contests are only required if a contest of that type appears on the ballot.

(c) The following text for these instructions is recommended and may be adapted to be accurate to the administration and voting system or ballot format in each county:

> **Instructions for voting**
> To vote for a candidate, completely fill in the [voting target] next to their name or the word Yes or No.
> To vote for a qualified write-in candidate, write the name in the blank space provided and fill in the [voting target]
> If you make a mistake, [instructions for making a correction] [or ask for a new ballot].
>
> **Make sure your vote counts**
> Use a [blue or black ballpoint pen].
> Do not select more candidates than the number to be elected.
> You may vote in as many or as few contests as you want.
> A mistake in one contest does not affect the rest of the ballot.

(d) The instructions may be accompanied by illustrations, customized to the ballot design in each county, that show the correct way of marking a selection on the ballot, writing in a candidate name, or correcting a mistake.

(a) The instructions to voters shall be printed below the district designation. The instructions shall begin with the words "INSTRUCTIONS TO VOTERS:" in no smaller than 16-point capital type. Thereafter, there shall be printed in 10-point capital type all of the following directions that are applicable to the ballot:

"To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, mark the voting target next to the word "Yes," to the right of the name of the candidate. To vote against that candidate, mark the voting target next to the word "No," to the right of the name of that candidate."
"To vote for any other candidate of your selection, mark the voting target next to the candidate's name. [When justices of the Supreme Court or Court of Appeal do not appear on the ballot, the instructions referring to voting after the word "Yes" or the word "No" will be deleted and the above sentence shall read: "To vote for a candidate whose name appears on the ballot, mark the voting target next to the candidate's name."] Where two or more candidates for the same office are to be elected, place a mark next to the names of all candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected."
"To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office."
"To vote on any measure, mark the voting target next to the word "Yes" or after the word "No."
"Marking the ballot outside of the designated space to vote for a candidate or measure may compromise the secrecy of the ballot."
"If you wrongly mark, tear, or deface this ballot, return it to the precinct board member and obtain another."
"On vote by mail ballots mark with pen or pencil."
(b) The instructions to voters shall be separated from the portion of the ballot that contains the various offices and measures to be voted on.
(Amended by Stats. 2019, Ch. 863, Sec. 7. (AB 623) Effective January 1, 2020.)

Justification: Making the text shorter and clearer so it is more helpful for voters. Giving counties the flexibility to make the instructions accurate for their voting systems and procedures while providing a recommended sample text. Clarifying what instructions are required vs. recommended or optional.

Note: Examples of illustrations, originally created for California voter guides are included in the collection: https://www.electiontools.org/tool/civic-icons-and-images/ With versions for all different marking targets. See Collection 9,

13205

Additional instructions to voters shall appear on the ballot prior to those provided for in Section 13204 under the following conditions:

(a) In a primary election at which candidates for delegate to national convention are to be voted upon, the instructions shall read:

"To vote for a candidate for the party's nomination for president fill in the [voting target] next to their name."

"To vote for the group of candidates preferring a person whose name appears on the ballot, mark the voting target next to the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate, mark the voting target next to the name of the chairman of the group."

(b) In elections when electors of President and Vice President of the United States are to be chosen, there shall be placed upon the ballot, in addition to the instructions to voters as provided in this chapter, an instruction as follows:

> "To vote for President and Vice President, fill in the [voting target] next to their names. This is a vote for electors pledged to those candidates.
>
> To vote for candidates for President and Vice President who do not appear on the ballot, write their name in the blank space provided for write-ins and fill in the [voting target]"

"To vote for all of the electors of a party, mark the voting target next to the names of the presidential and vice presidential candidates of that party. A mark of the voting target next to the name of a party and its presidential and vice presidential candidate, is a vote for all of the electors of that party, but for no other candidates."

(c) If a group of candidates for electors has been nominated under Chapter 3 (commencing with Section 8400) of Division 8, and has under Chapter 1 (commencing at Section 8300) of Division 8 designated the names of the candidates for President and Vice President of the United States for whom those candidates have pledged themselves to vote, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote for a candidate for President and Vice President not supported by any particular party mark the voting target next to the names of those presidential and vice presidential candidates."

(d) If a group of candidates for electors has been nominated by a party not qualified to participate in the election, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose."

(Amended by Stats. 2019, Ch. 863, Sec. 8. (AB 623) Effective January 1, 2020.)

> Justification: Making the text shorter and clearer so it is more helpful for voters, while still meeting the meaning of the original text.

13206

(a) On the partisan ballot used in a direct primary election, immediately before or above the contest for President, the following words shall be printed on ballots of parties that require registration in their party to vote in their primary:

> **"Party-Nominated Offices**
> Only voters registered in the [name of party] may vote in this primary election for President and party committee."

In the same location, the following words shall be printed on ballots of parties that allow "crossover" voting by voters with no party preference,

> **"Party-Nominated Offices**
> Voters registered in the [name of party] may vote in this primary election for President and party committee. Some parties may allow voters with no party preference to vote in its primary election for President"

For voting systems that do not allow variance in instructions, the following words shall be printed:

> **"Party-Nominated Offices**
> Voters registered in the same party as the candidates may vote in this primary election for President and party committee. Some parties may allow voters with no party preference to vote in its primary election for President"

~~below the instructions to voters, there shall be a box. Within the box shall be printed the words "Party-Nominated Offices." Immediately below that phrase within the same box shall be printed the following: "Only voters who disclosed a preference upon registering to vote for the same party as the candidate seeking the nomination of any party for the Presidency or election to a party committee may vote for that candidate at the primary election, unless the party has adopted a rule to permit non-party voters to vote in its primary elections."~~

(b) Before or above the first voter-nominated contest the following words shall be printed:

> **"Voter-Nominated Offices**
> **All voters may vote in these contests.**
> Candidates display a party preference (or None) for the information of voters. This is not a party endorsement or approval."

(c) Before or above the first nonpartisan contest, or in the same area as the notice for voter-nominated offices, the following words shall be printed:

> **"Nonpartisan Offices**
> **All voters may vote in all of these contests.**
> Candidates for these offices do not display a party preference."

~~The same style of box described in subdivision (a) shall also appear over the columns of the nonpartisan part of the ballot and within the box in the same style and point size of type shall be printed "Voter-Nominated and Nonpartisan Offices." Immediately below that phrase within the same box~~

~~"All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated or nonpartisan office. The party preference, if any, designated by a candidate for a voter-nominated office is selected by the candidate and is shown for the information of the voters only. It does not imply that the candidate is nominated~~

or endorsed by the party or that the party approves of the candidate. The party preference, if any, of a candidate for a nonpartisan office does not appear on the ballot."

(Amended by Stats. 2019, Ch. 863, Sec. 9. (AB 623) Effective January 1, 2020.)

Justification: Making the text shorter and clearer so it is more helpful for voters, while still meeting the meaning of the original text.

13208

(a) ~~In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting target next to the name of each candidate for partisan office, voter-nominated office, nonpartisan office (except for Justice of the Supreme Court or justice of a court of appeal), or for chairperson of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting targets to the right of the words "Yes" and "No."~~ The voting targets shall be used by the voters to express their choices as provided for in the instruction to voters.

(b) The standard voting target may be up to one-half inch wide. Voting targets for measures may be as tall as is required by the space occupied by the title and summary.

(c) As used in this section, "target" means an object designated as the aim for a voter to make a vote selection.

Justification: CACEO has successfully made updates to the Code to eliminate reference to voting targets being to the right of candidates names or to the right of the words "Yes" and "No." This is the same kind of change that we all apparently missed in past legislative sessions. This is a simplification of a wordy requirement as well,

13210

(a) In the case of candidates for delegate to national convention, there shall be printed ~~in boldface type, not smaller than 12-point~~ at least 10 point bold type, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "President of the United States." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column.

(b) In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting targets for that office. The heading "President and Vice President" shall be printed in at least 10 point bold type ~~boldface 12-point type.~~

(c) In that section of the ballot designated for judicial offices, next to the heading "judicial" shall appear the instruction:

"Vote yes or no for each office."

(d) In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each candidate, and immediately above each candidate's name, there shall appear the following:

"For (designation of judicial office)."

There shall be as many of these headings as there are candidates for these judicial offices. No heading shall apply to more than one judicial office.

Underneath each heading shall appear the words

"Shall (title and name of Justice) be elected to the office for the term provided by law?"

(e) In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running, and the words "vote for one" or "vote for no more than two," or more, according to the number to be nominated or elected.

The designation of the office shall be printed flush with the left-hand margin in <u>at least 9 point bold type</u> ~~boldface type not smaller than 8-point~~. The words, "vote for _____" shall extend to the extreme right-hand margin of the column. The number of candidates to be nominated or elected shall be printed in bold~~face~~ type. The designation of the office and the directions for voting shall be separated from the candidates by a light line. There shall be no line between the headings for federal or legislative offices and the designation of the office and the directions for voting.

(Amended by Stats. 2019, Ch. 863, Sec. 13. (AB 623) Effective January 1, 2020.)

Justification: Adjusting the minimum text size to be consistent with the overall text size requirements and make the ballot easier to read.

13211

The names of the candidates shall be printed on the ballot, without indentation, in ~~at least~~ <u>10 point</u> bold type. ~~in capital, boldface type not smaller than 8-point.~~

(Amended by Stats. 2019, Ch. 863, Sec. 14. (AB 623) Effective January 1, 2020.)

Justification: Adjusting the minimum type size to be easier to read. See 13202 for adjustments to smaller type for multilingual ballots. Note that 10 points is in the VVSG 2.0 requirements.

13213

Each group of names of candidates for a particular office shall be separated from the succeeding group. Each series of groups shall be headed by the caption "President of the United States," "President and Vice President," "State," "United States Senator," "United States Representative," "State Senator," "Member of the State Assembly," "County," or "City" or other proper general classification, as

the case may be, printed in boldface capital type. Each caption shall be separated from the names of the candidates beneath.

> Justification: All caps decrease readability. California ballots have lots of required capitalization; I don't see why it's necessary for these groupings.

13214

.~~The left-hand side of the first column of names on the ballot and the right-hand~~ *All* side *sides* of the ~~last column of voting targets~~ *columns* on the ballot shall be bordered. The binding or stitching of each package of ballots shall be along the top or head of the ballot. If ballots are to be used on a ballot on demand system or another system that prints content onto ballots, ballots are not required to be bound or stitched.

> Justification: CACEO has successfully made updates to the Code to eliminate reference to voting targets being to the right of candidates names or to the right of the words "Yes" and "No." This is the same kind of change that we all apparently missed in past legislative sessions.

13261

(a) Each ballot card ~~shall~~ *may* have two stubs attached. The stubs shall be separated ~~from the ballot card and from each other~~ by perforated lines so that they may be readily detached *from the ballot card*.

(b) (1) One stub shall have the serial ballot number printed on it, and shall be detached from the remainder of the ballot before it is handed to the voter.

(2) The second stub shall have printed on it all of the following:

(A) The same ballot serial number.

(B) The words "This ballot stub shall be removed and retained by the voter."

(C) The words ~~"OFFICIAL BALLOT"~~ "Official Ballot" in ~~uppercase~~ boldface type no smaller than 12 point.

(D) In primary elections, the party name, e.g., "Democratic Party," or the words "Nonpartisan Ballot," as applicable.

(E) The name of the county.

(F) The date of the election.

(G) Where not otherwise provided, instructions to the voter on how to mark the ballot with the marking device, how to vote for a candidate whose name is not printed on the ballot, and how to secure an additional ballot card if the ballot card is spoiled or marked erroneously.

(3) If the information listed in subparagraphs (A) to (G), inclusive, of paragraph (2) must also appear in one or more languages other than English under the provisions of the federal Voting Rights Act of 1965 as extended by Public Law 94-73, and there is insufficient room for all the information to be set forth in all the required languages while at the same time appearing in a type size sufficiently large to be readable, the official in charge of the election may delete information set forth in subparagraphs (E) and (F) of paragraph (2), in the order listed, until there is sufficient room.

(c) In addition to the instructions to voters printed on the ballot or ballot stub, there shall be displayed in each voting booth instructions to voters substantially in the same form and wording as appears on paper ballots.

Precinct numbers may also be placed on the ballot.

> Justification: EC 13215, 13216, 13216.5, and 13267 make it clear that ballot stubs aren't actually required if counties meet other conditions; most of these sections of Code were updated recently. (Stub also have design elements included; Nevada doesn't use ballot stubs so I have no informed opinion to offer the BDAC.) Other changes included that conform with BDAC's recommendations on capitalization.
>
> EC 13261 was last updated in 1997.

ARTICLE 4. ~~Punchcards~~ *Ballot Cards*

13266. If punchcard ballots are used for vote by mail voting, the ballots shall be marked by pencil, or by a marking device that enables the voter to register his or her vote by punching or slotting the ballot card. Counting of punchcard ballots marked by pencil may be as with paper ballots, or a true duplicate copy of each ballot may be prepared using the same procedure as provided by Section 15271. Vote by mail voter ballots so prepared shall be counted by the counting device.

> Justification: As far as I'm aware, counties don't use punchcard technology anymore. Other punchcard related clean up to the Code (that I'm happy to do if asked) includes EC 302, 344, 14443, 15211, and 15360.