October 28, 2021

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 21171

TO: All County Clerks/Registrars of Voters

FROM: /s/ Rachelle Delucchi
            Elections Counsel

RE: Emergency Readopt Regulations: Statewide Voter Registration
            System, Conditional Voter Registration

The Secretary of State is proposing to readopt emergency regulations it adopted on October 5, 2020. The regulations provide additional reason codes for vote-by-mail ballots and conditional voter registration ballots.

The purpose of the readoption is to keep the emergency regulations in effect during the time of the regular rulemaking process to make the emergency regulations permanent.

Notice period:

This notice period will run from October 28, 2021, through November 4, 2021. At the end of the notice period, the Secretary of State will submit the required documents to the Office of Administrative Law for the readoption of these emergency regulations.

A copy of the notice and the original text of the regulations are attached to this memorandum and are available on the Secretary of State's website at https://www.sos.ca.gov/administration/regulations/proposed-regulations

If you have any questions, please feel free to contact Rachelle Delucchi at rdelucch@sos.ca.gov and Robbie Anderson at aanderso@sos.ca.gov, or (916) 657-2166.

Thank you.

California Secretary of StateProposed Regulatory Action
Emergency Action: Statewide Voter Registration System, Conditional Voter Registration

(Second Readoption of Emergency Regulations)Proposed Regulation Text Showing Changes to Emergency Regulation Text

Note: The Secretary of State is proposing no changes to the Emergency Regulation Text as part of the readoption regulatory action.

Title 2. Administration
Division 7. Secretary of State

The California Secretary of State is proposing to amend the following existing regulations: Sections 19092 and 19094 of Article 2.5 and Chapter 1., and Section 20026 of Article 3.5 of Chapter 1. Changes to existing regulation text are shown in strikethrough and underline, with eliminated text struck and new text underlined.

Chapter 1. Voter Registration
Article 2.5. Statewide Voter Registration System

19092. Vote-by-Mail Ballot Reason Codes.

(a) For all VBM ballots where the ballot return status is "Not Accepted," an appropriate reason code shall be assigned by the county elections official.
(b) If a VBM ballot has not had a final adjudication, the county elections official ~~shall~~ may assign the ballot return status of "Not Accepted" and a temporary rejection reason code of "In review~~.~~" or one of the applicable rejection reason codes set forth in subdivision (c) below. Upon the final adjudication of the ballot, "In review" shall be replaced with either a ballot return status of "Accepted" or with a reason code for "Not Accepted" as provided in subdivision (c) below.
(c) If a county elections official does not accept a VBM ballot, then a ballot return status of "Not Accepted" shall be assigned along with one of the rejection reason codes listed below:
(1) "Voter already voted." This reason code shall be used when rejecting a VBM ballot that was submitted by a voter when the voter already has an accepted or counted ballot in California for that election, when the voter has previously:
(A) Voted at a location as provided in Elections Code section 338.5;
(B) Returned a VBM ballot in California that was accepted by a county elections official;
(C) Returned a provisional ballot that has been processed and counted in the same or another county; or
(D) Returned a CVR provisional ballot that has been processed and counted in the same or another county.

(2) "No voter signature." This reason code shall be used when the voter did not provide a signature on the VBM ballot envelope.

(3) "Non-matching signature." This reason code shall be used when the voter provided a signature on the VBM ballot envelope that did not compare to the signature on file with the county.

(4) "Ballot missing from envelope." This reason code shall be used when the VBM ballot envelope did not contain a ballot.

(5) "Voter deceased." This reason code shall be used when the voter has not cast their VBM ballot because it is determined that the voter ~~was~~ is deceased ~~prior to the signature on the envelope~~.

(6) "Missing or incorrect address on the envelope." This reason code shall be used when the address is missing from the VBM envelope or when the address does not match the registration record on file in the elections office.

(7) "Multiple ballots returned in one envelope." This reason code shall be used when more than one VBM ballot is returned in an envelope.

(8) "Ballot was not received in time." This reason code shall be used when a VBM ballot was postmarked after Election Day or was postmarked on or before Election Day and was received by the county elections office more than three days after the election or was delivered to the polls or vote center after the close of the polls on Election Day.

(9) "VBM ballot was undeliverable." This reason code shall be used when the voter has not cast their VBM ballot and the VBM ballot is returned by the United States Postal Service and marked undeliverable.

(10) "No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter, did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of this article, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.

~~(10)~~(11) "Cancelled." This reason code is used when a voter has not cast their VBM ballot and the VBM ballot was voided, spoiled, or the VBM ballot was surrendered or suspended and re-issued.

~~(11)~~(12) "Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c) (1-11~~9~~) above.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 2168, Elections Code. Reference: Sections 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3007.5, 3007.7, 3007.8, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3016.5, 3017, 3018, 3019, 3019.5, 3019.7, 3020, 3021, 3021.5, 3022, 3023, 3024, 3025, and 3026, Elections Code; 52 U.S.C. Section 21083.

19094. Provisional Ballot Reason Codes

(a) For all provisional ballots where the ballot return status is "Not Counted," an appropriate reason code shall be assigned by the county elections official.

(b) If a provisional ballot has not had a final adjudication, the county elections official ~~shall~~ may assign the ballot return status of "Not Counted" and a temporary rejection reason code of "In

review.<u>"</u> <u>or one of the applicable rejection reason codes set forth in subdivision (c) below.</u> Upon the final adjudication of the ballot, "In review" shall be replaced with either a ballot return status of "Counted" or with a reason code for "Not Counted" as provided in subdivision (c) below.

(c) If a county elections official does not count a provisional ballot, then a ballot <u>return</u> status of "Not Counted" shall be assigned along with one of the <u>rejection</u> reason codes listed below:

(1) "Voter already voted." This reason code shall be used when <u>rejecting a provisional ballot that was submitted by a voter when</u> the voter <u>already</u> has an accepted or counted ballot in California for that election, when the voter has previously:

(A) Voted at a location as provided in Elections Code section 338.5;

(B) Returned a VBM ballot in California that was accepted by a county elections official;

(C) Returned a provisional ballot that has been processed and counted in the same or another county; or

(D) Returned a CVR provisional ballot that has been processed and counted in the same or another county.

(2) "No voter signature." This reason code shall be used when the voter did not provide a signature on the provisional ballot envelope.

(3) "Non-matching signature." This reason code shall be used when the voter provided a signature on the provisional ballot envelope that did not compare to the signature on file with the county.

(4) "Ballot missing from envelope." This reason code shall be used when the provisional ballot envelope did not contain a ballot.

(5) "Voter not registered." This reason code shall be used when the voter's record is missing substantive information, which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.

(6) "Voted in wrong county." This reason code shall be used when a voter voted in a county where he/she was not registered.

(7) "Voted wrong ballot." This reason code shall be used when a voter voted a ballot that he/she is not eligible to vote.

(8) "Envelope was incomplete and/or illegible." This reason code shall be used when the substantive information provided on the provisional ballot envelope was missing or unclear.

(9) <u>"No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of this article, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.</u>

(9)<u>(10)</u> "Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c) (1-9~~8~~) above.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 2168, Elections Code. Reference: 52 U.S.C. Section 21083.

Chapter 1. Voter Registration
Article 3.5 Conditional Voter Registration.

20026. Conditional Voter Registration Provisional Ballot Reason Codes.

(a) For all CVR provisional ballots where the ballot return status is "Not Counted," an appropriate reason code shall be assigned by the county elections official.

(b) If a CVR provisional ballot has not had a final adjudication, the county election official ~~shall~~ may assign the ballot return status of "Not Counted" and a temporary rejection reason code of "In review~~.~~" or one of the applicable rejection reason codes set forth in subdivision (c) below. Upon the final adjudication of the ballot, "In review" shall be replaced with either a ballot return status of "Counted" or with a reason code for "Not Counted" as provided in subdivisions (c) and (d) below.

(c) A county elections official shall not count a CVR provisional ballot and shall assign the ballot a status of "Not Counted" with one of the reason codes listed below:

1. "Voter already voted." This reason code shall be used when the voter has an accepted or counted ballot in California for that election, when the voter has previously:

    i. voted at a location as provided in Elections Code section 338.5,
    ii. returned a vote-by-mail (VBM) ballot in California that was accepted by a county elections official,
    iii. returned a provisional ballot that has been processed and counted in the same or another county, or
    iv. returned a CVR provisional ballot that has been processed and counted in the same or another county.

2. "No voter signature." This reason code shall be used when the voter did not provide a signature on the CVR provisional ballot envelope.

3. "Non-matching signature." This reason code shall be used when the voter provided a signature on the CVR provisional ballot envelope that did not compare to the signature on file with the county.

4. "Ballot missing from envelope." This reason code shall be used when the CVR provisional ballot envelope did not contain a ballot.

5. "Voter not registered." This reason code shall be used when the voter's record is in a deficient status pursuant to Elections Code section 2150 et seq., which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.

6. "Envelope was incomplete and/or illegible." This reason code shall be used when the substantive information provided on the CVR provisional ballot envelope was missing or unclear.

7. "No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter, did not provide a California driver

license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of Article 2.5 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.

7~~8~~.~~"~~Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c)(1-7~~6~~) above.

(d) The following additional reason codes apply to provisional ballots cast pursuant to Elections Code section 14310, but are not applicable to CVR provisional ballots:

1. "Voted in wrong county."
2. "Voted wrong ballot."

Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, 2171, 2172, and 2173, Elections Code. Reference: Sections 2170, 2171, and 14310, Elections Code.

California Secretary of State

Proposed Regulatory Action
Emergency Action: Statewide Voter Registration System
and Conditional Voter Registration
(Second Readoption of Emergency Regulations)

Finding of Emergency

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. (1 California Code of Regulations, Section 48.)

Notice Period: The notice period for this emergency readopt action will run for five working days, from October 28, through November 3, 2021. At the end of the notice period, the Secretary of Statewill submit the required documents to the Office of Administrative Law for the readoption of these emergency regulations.

INFORMATIVE DIGEST AND STATEMENT OF EMERGENCY

The purpose of these regulations is to readopt the emergency regulations (OAL File No. 2020-0925-3(E)) the Secretary of State (SOS) adopted on October 5, 2020.

The emergency regulations were adopted to provide the 58 counties with procedures that will ensure uniformity with respect to the processing of ballots of first-time voters who do not provide a California driver license or state identification number or the last four (4) digits of their social security number when they register to vote, pursuant to the provisions of the Help America Vote Act of 2002 (HAVA) (52 U.S.C. 21083(b)). In addition, the emergency regulations adopted additional rejection reason codes relating to processing of VBM ballots and provisional ballots. These additional reason codes are needed in order to provide counties with procedures that will ensure uniformity, in order to avoid confusion among election stakeholders including the press and the public who review the state's election data following the election. The existing regulations (with respect to the rejection reason codes) as written do not allow our office to calculate the VBM ballots acceptance and rejection rates accurately. Without these emergency regulations, it is possible that VBM acceptance and rejection rates for the counties will not be understood correctly and consequently this may lead to an incorrect perception of the amount of double voting scenarios and VBM rejection rates, potentially risking public confidence in the election.

On February 19, 2021, the California Legislature passed, and the Governor signed, Senate Bill (SB) 29. This bill extended the existing law requirements that required the county elections officials to mail a ballot to every registered active voter for the November 3, 2020, Presidential General Election to all elections conducted prior to January 1, 2022. The California Legislature passed, and the Governor signed on September 27, 2021, Assembly Bill (AB) 37. This bill will go into effect as of January 1, 2022, and will extend the existing law requirements that required the county elections officials to mail a ballot to every registered active voter to all elections conducted going forward. The Secretary of State's office has been made aware that Assemblymember Chiu will resign from his office of Assembly District 17. This resignation will trigger a special primary election and possibly a special general election that will occur after the current emergency regulations expire but very likely in advance of the time we are able to complete a Certificate of Compliance action or otherwise enact permanent regulations. We are actively working on permanent regulations, as discussed below. With at least one election on the horizon, the need for uniform reason coded remains unchanged from the time the initial emergency regulations were adopted.

These emergency regulations avoid serious harm to the public peace, health, safety, and general welfare by providing uniform procedures for all of California's 58 county elections officials to follow for signature verification, ballot processing, and ballot counting. With a possible special election on the horizon, the emergency related to the verification of signatures on vote-by-mail ballots, processing voted ballots, and counting voted ballots remains unchanged.

The SOS has made substantial progress and preceded with diligence to make its emergency regulations permanent. We have begun the formal rulemaking process for a certificate of compliance action. We published notice for that certificate of compliance on June 18, 2021. We are working with the counties and other stakeholders to finalize the text of the proposed regulations.

These emergency regulations avoid serious harm to the public peace, health, safety, and general welfare by keeping emergency regulations that provide for uniform procedures for county elections officials to follow in effect.

Regulatory Compatibility

The Secretary of State has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Secretary of State has concluded that these are the only regulations that concern the statewide voter registration system and conditional voter registration in California.

<u>Local Mandate Determination</u>

Mandate on local agencies or school districts: None

<u>Estimate of Cost Savings</u>

Cost savings to any state agency: None

Reimbursable cost to any local government agencies: None

Nondiscretionary cost or savings to local government agencies: None

Cost or savings in federal funding to the state: None

NECESSITY STATEMENT

These proposed regulations are necessary to keep emergency regulations in effect until a Certificate of Compliance action can be completed which will make those emergency regulationspermanent. Unless these emergency regulations are readopted, county elections officials will nothave uniform reason codes available when processing vote-by-mail ballots and conditional voterregistration ballots.

AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code and Sections 10, 2168, 2170, 2171, 2172, and 2173, Elections Code.

Reference: Sections 2170, 2171, 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3007.5, 3007.7, 3007.8, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3016.5, 3017, 3018, 3019, 3019.5, 3019.7, 3020, 3021, 3021.5, 3022, 3023, 3024, 3025, 3026, and 14310, Elections Code; 52 U.S.C. Section 21083.

INCORPORATED BY REFRENCE

- OAL file no. 2020-0925-03E

DOCUMENTS RELIED UPON

- Senate Bill 29 (Chapter 3 of the Statutes of 2021)
- Assembly Bill 37 (Chapter 312 of the Statutes of 2021)

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Primary Contact Person	Backup contact person:
Robbie Anderson	Rachelle Delucchi
Secretary of State	Secretary of State
1500 11th St., 5th Floor	1500 11th St., 5th Floor
Sacramento, CA 95814	Sacramento, CA 95814
(916) 216-6488	(916) 695-1565
aanderso@sos.ca.gov	rdelucch@sos.ca.gov

State of California
Office of Administrative Law

In re:	NOTICE OF APPROVAL OF EMERGENCY REGULATORY ACTION
Secretary of State	
Regulatory Action:	
Title 02, California Code of Regulations	Government Code Sections 11346.1 and 11349.6
Adopt sections: Amend sections: 19092, 19094, 20026 Repeal sections:	OAL Matter Number: 2020-0925-03
	OAL Matter Type: Emergency (E)

This emergency rulemaking action by the California Secretary of State makes changes to the reason codes for vote-by-mail ballots, provisional ballots, and conditional voter registration provisional ballots.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 10/5/2020 and pursuant to Executive Orders N-40-20 and N-66-20 will expire on 8/4/2021 and not on 4/6/2021. The Certificate of Compliance for this action is due no later than 8/3/2021.

Date: October 5, 2020

Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
      Director

Original: Alex Padilla, Secretary of State
Copy: Raj Bathla

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2020-0925-03	EMERGENCY NUMBER

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

OCT 05 2020
1:36 p.m.

For use by Office of Administrative Law (OAL) only

2020 SEP 25 P 4:31

OFFICE OF
ADMINISTRATIVE LAW

NOTICE	REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY SECRETARY OF STATE	AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)

OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Statewide Voter Registration System; Conditional Voter Registration	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 19092, 19094 and 20026
TITLE(S) TITLE 2	REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)

☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)

☒ Emergency (Gov. Code, §11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.

☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)

☐ Emergency Readopt (Gov. Code, §11346.1(h))

☐ File & Print

☐ Other (Specify)

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)

☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100.)
☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
☒ Effective on filing with Secretary of State
☐ §100 Changes Without Regulatory Effect
☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
☐ Department of Finance (Form STD. 399) (SAM §6660)
☐ Fair Political Practices Commission
☐ State Fire Marshal
☐ Other (Specify)

7. CONTACT PERSON RAJ BATHLA	TELEPHONE NUMBER 916-801-9451	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) rbathla@sos.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE *Susan Lapsley*	DATE September 25, 2020
TYPED NAME AND TITLE OF SIGNATORY Susan Lapsley, Deputy Secretary of State	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 05 2020

Office of Administrative Law

California Secretary of State
Proposed Regulatory Action
Emergency Action: Statewide Voter Registration System and Conditional Voter Registration
Proposed Regulation Text

Title 2. Administration
Division 7. Secretary of State

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Article 2.5. Statewide Voter Registration System

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(c) If a county elections official does not accept a VBM ballot, then a ballot return status of "Not Accepted" shall be assigned along with one of the rejection reason codes listed below:
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(4) "Ballot missing from envelope." This reason code shall be used when the VBM ballot envelope did not contain a ballot.

(5) "Voter deceased." This reason code shall be used when it is determined that the voter was deceased prior to the signature on the envelope or when the ballot has been returned unvoted with a notation that the voter is deceased.

(6) "Missing or incorrect address on the envelope." This reason code shall be used when the address is missing from the VBM envelope or when the address does not match the registration record on file in the elections office.

(7) "Multiple ballots returned in one envelope." This reason code shall be used when more than one VBM ballot is returned in an envelope.

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(12) "Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c) (1-119) above.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 2168, Elections Code. Reference: Sections 3000, 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3007.5, 3007.7, 3007.8, 3008, 3009, 3010, 3011, 3012, 3013, 3014, 3015, 3016, 3016.5, 3017, 3018, 3019, 3019.5, 3019.7, 3020, 3021, 3021.5, 3022, 3023, 3024, 3025, and 3026, Elections Code; 52 U.S.C. Section 21083.

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(c) If a county elections official does not count a provisional ballot, then a ballot return status of "Not Counted" shall be assigned along with one of the rejection reason codes listed below:

(1) "Voter already voted." This reason code shall be used when <u>rejecting a provisional</u> <u>ballot that was submitted by a voter when</u> the voter <u>already</u> has an accepted or counted ballot in California for that election, when the voter has previously:

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 (D) Returned a CVR provisional ballot that has been processed and counted in the same or another county.

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(3) "Non-matching signature." This reason code shall be used when the voter provided a signature on the provisional ballot envelope that did not compare to the signature on file with the county.

(4) "Ballot missing from envelope." This reason code shall be used when the provisional ballot envelope did not contain a ballot.

(5) "Voter not registered." This reason code shall be used when the voter's record is missing substantive information, which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.

(6) "Voted in wrong county." This reason code shall be used when a voter voted in a county where he/she was not registered.

(7) "Voted wrong ballot." This reason code shall be used when a voter voted a ballot that he/she is not eligible to vote.

(8) "Envelope was incomplete and/or illegible." This reason code shall be used when the substantive information provided on the provisional ballot envelope was missing or unclear.

(9) "No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of this article, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.

(9)(10) "Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c) (1-98) above.

Note: Authority cited: Section 12172.5, Government Code; Sections 10 and 2168, Elections Code.
Reference: 52 U.S.C. Section 21083.

Chapter 1. Voter Registration
Article 3.5 Conditional Voter Registration.

20026. Conditional Voter Registration Provisional Ballot Reason Codes.

(a) For all CVR provisional ballots where the ballot return status is "Not Counted," an appropriate reason code shall be assigned by the county elections official.
(b) If a CVR provisional ballot has not had a final adjudication, the county election official shall assign the ballot return status of "Not Counted" and either a temporary rejection reason code of "In review:" or one of the applicable rejection reason codes set forth in subdivision (c) below. Upon the final adjudication of the ballot, "In review" shall be replaced with either a ballot return status of "Counted" or with a reason code for "Not Counted" as provided in subdivisions (c) and (d) below.
(c) A county elections official shall not count a CVR provisional ballot and shall assign the ballot a status of "Not Counted" with one of the reason codes listed below:
    1. "Voter already voted." This reason code shall be used when the voter has an accepted or counted ballot in California for that election, when the voter has previously:
        (A) voted at a location as provided in Elections Code section 338.5,
        (B) returned a vote-by-mail (VBM) ballot in California that was accepted by a county elections official,
        (C) returned a provisional ballot that has been processed and counted in the same or another county, or
        (D) returned a CVR provisional ballot that has been processed and counted in the same or another county.
    2. "No voter signature." This reason code shall be used when the voter did not provide a signature on the CVR provisional ballot envelope.
    3. "Non-matching signature." This reason code shall be used when the voter provided a signature on the CVR provisional ballot envelope that did not compare to the signature on file with the county.
    4. "Ballot missing from envelope." This reason code shall be used when the CVR provisional ballot envelope did not contain a ballot.
    5. "Voter not registered." This reason code shall be used when the voter's record is in a deficient status pursuant to Elections Code section 2150 et seq., which means the registration does not contain the facts necessary to determine eligibility to vote, including name, place of residence and date of birth.
    6. "Envelope was incomplete and/or illegible." This reason code shall be used when the substantive information provided on the CVR provisional ballot envelope was missing or unclear.
    7. "No ID provided." This reason code shall be used in a federal election when a first-time registrant, who is also a first-time voter, did not provide a California driver license or state identification number or the last four (4) digits of their social security number when they registered to vote, pursuant to Section 19075 of Article 2.5 of chapter 1 of Division 7 of Title 2 of California Code of Regulations, and they did not provide the information required by Section 20107 of article 7 of chapter 1 of

<u>Division 7 of Title 2 of California Code of Regulations, prior to the final adjudication of the ballot.</u>

7<u>8</u>."Please contact your county for further information." This reason code shall be used when the county rejection reason is not "In review" or as provided in (c)(1-7<u>6</u>) above.

(d) The following additional reason codes apply to provisional ballots cast pursuant to Elections Code section 14310, but are not applicable to CVR provisional ballots:

1. "Voted in wrong county."
2. "Voted wrong ballot."

Note: Authority cited: Section 12172.5, Government Code; and Sections 10 and 2170, 2171, 2172, and 2173, Elections Code. Reference: Sections 2170, 2171, and 14310, Elections Code.

Senate Bill No. 29

CHAPTER 3

An act to amend Sections 3000.5 and 3019.7 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 29, Umberg. Elections: vote by mail ballots.

Existing law required 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.

This bill would extend these requirements to all elections proclaimed or conducted prior to January 1, 2022. By requiring county elections officials to mail a ballot to every registered voter, and to track those ballots, 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.

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. The Legislature finds and declares all of the following:

(a) 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.

(b) When California conducts an election in 2021, 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 in order to ensure that elections are held in a manner that is accessible, secure, and safe.

(c) Consistent with paragraph (2) of subdivision (a) of Section 2226 of the Elections Code, and with the longstanding interpretation by state and

local elections officials of Sections 4000 to 4108, inclusive, of the Elections Code governing the conduct of all-mailed ballot elections and of Section 3005 of the Elections Code governing mailed ballot precincts, nothing in this act is intended, and shall not be construed, to mean that a voter with an inactive voter registration status shall receive a vote by mail ballot for an election conducted in 2021.

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

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

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

SEC. 3.   Section 3019.7 of the Elections Code is amended to read:

3019.7.   (a) Not later than January 1, 2020, the Secretary of State shall establish a system that a county elections official may use to allow a vote by mail voter to track the voter's vote by mail ballot through the mail system and as the vote by mail ballot is processed by the county elections official. The system established pursuant to this section shall, at a minimum, allow a voter to register to receive information via email or text message from the county elections official about the status of the voter's vote by mail ballot, including all of the following information:

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

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

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

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

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

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

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

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

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

SEC. 4. 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. 5. 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:

To ensure that county elections officials have sufficient time to ensure that elections are held in a manner that is accessible, secure, and safe, it is necessary for this act to take effect immediately.

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Assembly Bill No. 37

CHAPTER 312

An act to amend Sections 3000.5, 3016.7, 3019.7, 3020, and 15101 of, to add Section 3025.5 to, and to repeal Section 3016.5 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law requires county elections officials to mail a ballot to every registered voter for 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 the requirements to mail a ballot to every registered voter to all 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.

Existing law authorizes a county elections official to establish vote by mail ballot drop-off locations, as defined. Existing law authorizes a county to conduct any election as an all-mailed ballot election under certain specified conditions.

This bill would require any county that does not conduct an all-mailed ballot election to provide at least two vote by mail ballot drop-off locations within the jurisdiction where the election is held, or at least one vote by mail ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more vote by mail ballot drop-off locations. In a jurisdiction with fewer than 30,000 registered voters, the bill would require at least one vote by mail ballot drop-off location, and would require the elections official to make a reasonable effort to provide a ballot drop-off location in the jurisdiction where the election is held. This bill would require the operation of vote by mail ballot drop-off locations to meet certain specified criteria.

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.

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

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

3000.5. (a) Notwithstanding any other law, for each election, the elections official shall, no later than 29 days before the day of the election, begin mailing the materials specified in Section 3010 to every registered voter. The elections official shall have five days to mail a ballot to each person who is registered to vote on the 29th day before the day of the election and five days to mail a ballot to each person who is subsequently registered to vote. The elections official shall not discriminate against any region or

precinct in choosing which ballots to mail first within the prescribed five-day mailing period.

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

(c) Consistent with paragraph (2) of subdivision (a) of Section 2226, this section is not intended and shall not be construed to authorize a voter with an inactive voter registration status to receive a vote by mail ballot for an election.

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

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

3016.7. The county elections official shall permit any voter to cast a ballot using a certified remote accessible vote by mail system, regardless of whether the voter is a voter with disabilities or a military or overseas voter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. Section 3025.5 is added to the Elections Code, to read:

3025.5. (a) (1) A county that does not conduct an election pursuant to either Section 4005 or 4007 shall provide at least two vote by mail ballot drop-off locations within the jurisdiction where the election is held or at least one vote by mail ballot drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, whichever results in more vote by mail ballot drop-off locations.

(2) Notwithstanding paragraph (1), for a jurisdiction with fewer than 30,000 registered voters, at least one vote by mail ballot drop-off location shall be provided. The elections official shall make a reasonable effort to provide a vote by mail ballot drop-off location in the jurisdiction where the election is held.

(b) A vote by mail ballot drop-off location provided for under this section 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 vote by mail 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.

(c) At least one vote by mail ballot drop-off location shall be an exterior drop box that is available for a minimum of 12 hours per day.

(d) For the purposes of this section, "vote by mail ballot drop-off location" has the same meaning as in Section 3025.

SEC. 7.   Section 15101 of the Elections Code is amended to read:

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

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

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

SEC. 8.   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.

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