

# Analysis of California State Election Law Mandates

San Joaquin County Registrar of Voters

# California Elections State Law Mandates

Issue Presented	Permissibility	Applicable Law <i>(See Generally; Not Intended to Serve as an Exhaustive List of All Applicable Legal Authority)</i>
Hand Counting Ballots in Lieu of Utilizing a Voting System	Permitted*	CA Elections Code §§ 15270, 15290 and 19207. [*CA Elections Code §§ 15372 and 15375]
Utilization of Paper Ballots <u>Only</u>	Unpermitted	The Americans with Disabilities Act (ADA); The Voting Rights Act of 1965 (VRA); The Help America Vote Act of 2002 (HAVA); Visually Impaired Voter Assistance Act of 1989 (CA Elections Code §§ 2050-2053).
Elimination of Vote-By-Mail Ballots	Unpermitted	CA Elections Code § 3000.5
Elimination of Ballot Drop Boxes	Unpermitted	CA Elections Code § 3025.5
Imposition of One Day Voting Period	Unpermitted	CA Elections Code §§ 3000.5, 3025.5, 15101
Penalize or Disallow Ballot Harvesting	Unpermitted	CA Elections Code § 3017
Imposition of ID Requirement Prior to Voting	Unpermitted	National Voter Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.); Section 2, Article II of the California Constitution; CA Elections Code §§ 2000, 2101, 2105, 2111, 2112, 2150, 2154, 2162, 2263, 2300
Imposition of Different Standards or Requirements Related to Voter Rolls	Unpermitted	Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code §§ 2200-2241.

# Hand Counting Ballots in Lieu of Utilizing a Voting System

## CA Elections Code 15270, 15290, 15372, 15375, and 19207

- This text establishes that ballots set for manual counting at a central location should be transported according to Sections 15201 and 15202. The count and tally should be done by precincts under the supervision of the elections official or authorized deputies, following procedures outlined in Article 5 (commencing with Section 15270).
- Additionally, the governing board has the authority to adopt any type of voting system, combination of voting systems, or a mix of a voting system and paper ballots for use at elections. This is, however, subject to the condition that the voting system(s) have been certified, conditionally approved by the Secretary of State, or specifically authorized by law according to Section 19209.

# Utilization of Paper Ballots Only

The Americans with Disabilities Act; The Voting Rights Act of 1965; The Help America Vote Act of 2002; Visually Impaired Voter Assistance Act of 1989;  
(Unpermitted)

- **Help America Vote Act (HAVA):** In line with this federal law, California ensures at least one accessible voting machine is available at each polling location, allowing disabled individuals to vote independently and privately.
- **Visually Impaired Voter Assistance Act:** In California, this act promotes the fundamental right to vote of visually impaired individuals. It encourages awareness of state voter information guide audio recordings and their delivery to these voters.

# Elimination of Vote-By-Mail Ballots

## CA Elections Code 3000.5 (Unpermitted)

This chapter mandates that the election officials must start mailing out ballots to all registered voters 29 days before each election, with a five-day period for dispatch. Voters can still vote in person despite receiving mail ballots. However, voters with an inactive registration status are not eligible to receive a vote-by-mail ballot.

# Elimination of Ballot Drop Boxes

## CA Elections Code 3025.5 (Unpermitted)

- The regulations indicate that counties not conducting elections as per Section 4005 or 4007 must provide at least two vote-by-mail ballot drop-off locations within the election jurisdiction or one location per 30,000 registered voters, depending on which yields more locations. For jurisdictions with fewer than 30,000 registered voters, at least one drop-off location must be provided.
- Drop-off locations should consist of secure, accessible, locked ballot boxes located near public transportation routes. They must be open during regular business hours beginning at least 28 days before the election day and on the election day itself.
- Additionally, at least one drop-off location must be an exterior drop box, accessible for a minimum of 12 hours per day. The term "vote by mail ballot drop-off location" is defined as in Section 3025.

# Imposition of One Day Voting Period

## CA Elections Code 3000.5, 3025.5 and 15101 (Unpermitted)

- This chapter mandates that the election officials must start mailing out ballots to all registered voters 29 days before each election, with a five-day period for dispatch. Voters can still vote in person despite receiving mail ballots. However, voters with an inactive registration status are not eligible to receive a vote-by-mail ballot.
- The regulations indicate that counties not conducting elections as per Section 4005 or 4007 must provide at least two vote-by-mail ballot drop-off locations within the election jurisdiction or one location per 30,000 registered voters, depending on which yields more locations. For jurisdictions with fewer than 30,000 registered voters, at least one drop-off location must be provided.
- Drop-off locations should consist of secure, accessible, locked ballot boxes located near public transportation routes. They must be open during regular business hours beginning at least 28 days before the election day and on the election day itself.

# Imposition of One Day Voting Period

## CA Elections Code 3000.5, 3025.5 and 15101 (Unpermitted)

- Additionally, at least one drop-off location must be an exterior drop box, accessible for a minimum of 12 hours per day. The term "vote by mail ballot drop-off location" is defined as in Section 3025.
- Jurisdictions can start processing vote-by-mail ballots, including signature verification and preparation for machine reading, 29 days before the election. However, vote counts can't be accessed or released until 8 p.m. on the election day, and no results should be released before the polls close.



# Penalize or Disallow Ballot Harvesting

## CA Elections Code 3017 (Unpermitted)

- All vote-by-mail ballots must be voted on or before the election day. After voting, the ballot can be returned by mail or in person to the elections official, a member of a precinct board, or a vote-by-mail ballot drop-off location within the state.
- A voter unable to return the ballot can designate another person to do so, provided the ballot is returned before the close of the polls on election day.
- The ballot must be received by the relevant authority before the close of polls on election day. If returned to a location not in the issuing county, the ballot should be forwarded to the correct county within eight days.
- Elections officials must establish procedures to ensure the secrecy, security, confidentiality, and integrity of ballots and personal information.

# Penalize or Disallow Ballot Harvesting

## CA Elections Code 3017 (Unpermitted)

- By March 1, 2008, a system for tracking and confirming receipt of vote-by-mail ballots should be established and made available online or via a toll-free number.
- Ballots must be delivered in compliance with these rules to be counted.
- A person cannot receive compensation based on the number of ballots they return. Engaging in criminal acts related to vote-by-mail ballots is punishable under Division 18.

# Imposition of ID Requirement Prior to Voting

National Voter Registration Act of 1993 (52 U.S.C Sec. 20501 et seq.); Article II, Section 2 of the California Constitution; CA Elections Code 2000, 2101, 2105, 2111, 2112, 2150, 2154, 2162, 2263, 2300

- This collection of texts outlines various provisions of California law regarding voter registration and eligibility. Essentially, to vote in California, a person must be a U.S. citizen, a resident of California, not currently imprisoned for a felony, and at least 18 years old. 16-year-olds can preregister to vote.
- The affidavit of registration requires personal information to establish the person as an eligible voter, such as name, place of residence, date of birth, and state or country of birth. For identification purposes, the affiant provides either a valid driver's license number or the last four digits of their Social Security number. If they possess neither, the state assigns an identification number for voter registration purposes.

# Imposition of ID Requirement Prior to Voting

National Voter Registration Act of 1993 (52 U.S.C Sec. 20501 et seq.); Article II, Section 2 of the California Constitution; CA Elections Code 2000, 2101, 2105, 2111, 2112, 2150, 2154, 2162, 2263, 2300

- However, this does not impose an ID requirement at the time of voting, rather it is a measure for registration. The right to vote is established through registration and is not tied to presentation of ID at the polling place. This aligns with Section 2 of Article II of the California Constitution and federal laws like NVRA that emphasize accessibility of voting, thereby making it illegal to impose additional ID requirements at the time of voting.
- Moreover, under the California New Motor Voter Program, opportunities for voter registration are increased, and the Secretary of State is responsible for determining voter registration eligibility, not the Department of Motor Vehicles.
- There's also a Voter Bill of Rights, ensuring various rights for voters, such as the right to cast a ballot if they're a valid registered voter, to cast a provisional ballot if their name isn't on the voting rolls, and to cast a secret ballot free from intimidation. This Voter Bill of Rights reemphasizes that the voting eligibility is tied to the status of being a registered voter, not to presenting an ID during the actual voting process.

# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- 52 U.S. Code Chapter 205, known as the National Voter Registration Act of 1993 (NVRA), is a U.S. federal law designed to increase the number of registered voters, remove barriers to their participation in the electoral process, and ensure the accuracy and currency of official lists of eligible voters.
  - **Motor Voter Registration:** Section 20504 mandates that states offer voter registration opportunities at the same time as a driver's license application or renewal.
  - **Mail Registration:** Section 20505 permits individuals to apply to register to vote by mail using mail-in forms developed by each state and the Election Assistance Commission.
  - **Agency-Based Registration:** Under Section 20506, states must offer voter registration opportunities at all offices that provide public assistance and all offices that provide state-funded programs primarily engaged in providing services to persons with disabilities.

# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- **Prohibition of Voter Purges:** Section 20507 states that states may not remove registered voters from the voter rolls solely because of a failure to vote.
- **Federal Coordination:** Section 20508 requires the Federal Election Commission (now the Election Assistance Commission) to develop a national mail voter registration form, assist states in meeting the requirements of the law, and report to Congress on the effectiveness of the Act.
- Note that while the NVRA sets a federal standard for voter registration procedures, individual states may implement additional measures or rules, provided they do not contravene federal law.

# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- Maintaining voter rolls, or the list of registered voters, is a critical part of the electoral process. In California, this is governed by the California Elections Code.
  - **Registration:** To be included on the voter rolls, individuals must complete the registration process. This includes providing the necessary information to verify their identity and eligibility, such as their name, address, date of birth, and driver's license number or last four digits of their social security number.
  - **Eligibility:** Only eligible individuals should be included on the voter rolls. Eligibility requirements include being a U.S. citizen, a resident of California, at least 18 years old by the day of the election, not currently in state or federal prison, and not found mentally incompetent by a court.

# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- **Confirmation of Registration:** After a person registers to vote, the county elections official sends a confirmation notice. If the notice is returned undeliverable, the individual's status may be changed to inactive.
- **Voter File Maintenance:** The county elections officials are required to conduct regular maintenance of the voter rolls. This includes removing the registrations of deceased individuals, those who have moved out of the jurisdiction, and those who have lost their voting rights due to felony conviction or mental incompetence.
- **Cancellation of Registration:** There are specific circumstances under which a voter's registration can be cancelled. These include at the request of the voter, if the voter dies, if the voter is declared mentally incompetent, or if the voter is convicted of a felony.



# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- **Inactive Voter Status:** Voters who have not voted in the past four years, or whose election mail has been returned undeliverable, may be moved to an "inactive" status. Inactive voters are still eligible to vote but may be removed from the rolls if they do not vote in two consecutive federal general elections.
- **Using Change of Address Data from Credit Reporting Agency**
  - San Joaquin County is preparing to enhance the accuracy of voter registration records through a new initiative. The plan is to begin contracting with consumer credit reporting agencies to gain access to change-of-address data, an innovative method that will be used in conjunction with the traditional process of mailing residency confirmation postcards.

# Imposition of Different Standards or Requirements Related to Voter Rolls

Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.); National Voter Registration Act of 1993 (52 U.S.C. Sec. 20500, et seq.); CA Elections Code 2200-2241

- The county transition aims to streamline the operations and improve the accuracy of voter records. This move, however, doesn't come without regulations to ensure the protection of voters' information. The implementation of this method is guided by a comprehensive series of steps and regulations designed to ensure the security of the data.
- In doing so, San Joaquin County is leveraging digital data resources to refine the process of maintaining accurate voter records, all the while upholding a strict commitment to voter privacy and data security. This initiative is a noteworthy example of a balanced approach that combines administrative efficiency with robust protection for voters' personal information.