



STATE CAPITOL  
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Assembly  
California Legislature  
**Committee on Rules**

KEN COOLEY  
CHAIR

Wednesday, June 3, 2020  
11:30 a.m.  
State Capitol, Room 4202

REGULAR AGENDA

VICE CHAIR  
CUNNINGHAM, JORDAN

MEMBERS  
CARRILLO, WENDY  
FLORA, HEATH  
GRAYSON, TIMOTHY S.  
MAIENSCHIN, BRIAN  
MATHIS, DEVON J.  
QUIRK-SILVA, SHARON  
RAMOS, JAMES C.  
RENDON, ANTHONY  
RIVAS, ROBERT  
WICKS, BUFFY

DIEP, TYLER (R-ALT)  
LEVINE, MARC (D-ALT)

**BILL REFERRALS**

1. Bill Referrals

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**ASSEMBLY BILL**

2. ACA 25 (Mullin) State of emergency: remote legislative proceedings

[Page 4](#)

**REQUEST TO ADD URGENCY CLAUSE**

3. SB 423 (Umberg) November 3, 2020: statewide general election

[Page 23](#)



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CHIEF ADMINISTRATIVE OFFICER  
DEBRA GRAVERT

Assembly  
California Legislature  
Committee on Rules

KEN COOLEY  
CHAIR

VICE CHAIR  
JORDAN CUNNINGHAM

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WENDY CARRILLO  
HEATH FLORA  
TIMOTHY S. GRAYSON  
SYDNEY KAMLAGER  
BRIAN MAIENSCHIN  
DEVON J. MATHIS  
SHARON QUIRK-SILVA  
JAMES C. RAMOS  
ROBERT RIVAS  
BUFFY WICKS

MARC LEVINE (D-ALT.)  
TYLER DIEP (R-ALT.)

# Memo

**To:** Rules Committee Members  
**From:** Michael Erke, Bill Referral Consultant  
**Date:** 6/2/2020  
**Re:** Consent Bill Referral

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Attached are two bill referral recommendations.

## REFERRAL OF BILLS TO COMMITTEE

06/03/2020

Pursuant to the Assembly Rules, the following bills were referred to committee:

Assembly Bill No.	Committee:
<u>ACA 16</u>	G.O.
<u>ACA 16</u>	APPR.
<u>ACA 23</u>	G.O.

Date of Hearing: June 3, 2020

ASSEMBLY COMMITTEE ON RULES

Ken Cooley, Chair

ACA 25 (Mullin, Ting, Cooley, and Waldron) – As Introduced May 21, 2020

**SUBJECT:** State of emergency: remote legislative proceedings

**SUMMARY:** Temporarily permits Members of the Legislature, by two-thirds vote, to remotely attend and vote in a legislative proceeding, or to vote by proxy in a legislative proceeding if permitted by their house, during the pendency of a state of emergency declared by the President of the United States or the Governor. In limited circumstances, permits the Legislature to restrict the public's access to a proceeding, if the restrictions are no greater than necessary to ensure the health and safety of Member, legislative employees, and members of the public. Provides that an aggrieved party shall have standing to challenge a waiver adopted pursuant to specified subparagraphs, in an action for declaratory and injunctive relief. Specifically, **this bill:**

- 1) Provides that Members of the Legislature, through the use of technology and without being physically present in the State Capitol, may attend and vote remotely in a legislative proceeding, or vote by proxy in a legislative proceeding if authorized by their house, during the pendency of a state of emergency declared by the President of the United States or the Governor.
- 2) Provides that the vote of a Member remotely attending a proceeding shall have the same force and effect as if the Member were physically present in the State Capitol; and, requires that a Member remotely attending a proceeding shall be included in the determination of a quorum.
- 3) Requires that the participation of a Member remotely attending a proceeding shall be included in the existing constitutional audiovisual recording requirement.
- 4) Provides that a house, or the Legislature if a proceeding involves Members from both houses, may waive the audiovisual recording requirement by a two-thirds rollcall vote if compliance is not practicable under the circumstances of the state of emergency.
- 5) Provides that a house, or the Legislature if a proceeding involves Members from both houses, may restrict the public's physical access to a proceeding if such access is not practicable under the circumstances of the state of emergency or due to the manner in which the proceeding is conducted.
- 6) Requires that the restrictions on physical access shall be no greater than necessary to ensure the health and safety of Members, legislative employees, and members of the public.
- 7) Provides that an aggrieved party shall have standing to challenge the waiver of the audiovisual recording requirement or the restriction on physical access in an action for declaratory and injunctive relief.
- 8) Defines "state of emergency" as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the State, or parts thereof, including, but not limited to, such conditions as an attack or probable or imminent attack by an enemy of the United

States, fire, flood, storm, insurrection, earthquake, volcanic eruption, or pandemic or other public health emergency.

- 9) Requires that the Legislature, or each house, shall choose technology for remote legislative proceedings that furthers the goals of security, the integrity and efficiency of the legislative process, and accessibility for Members who participate in proceedings remotely and members of the public who seek to view proceedings conducted by remote participation.
- 10) Provides that if one-fifth or more of the Members of a house are unable to attend a legislative proceeding during a state of emergency because they are deceased, disabled, or missing, a quorum of the house shall be established by a majority of its Members able to attend.
- 11) Provides that the Legislature may provide by statute for the temporary filling of vacant offices of Members with pro tempore members in the event that one-fifth or more of the Members of a house are deceased, disabled, or missing during a state of emergency.
- 12) Requires that a Member's authorization to attend and vote remotely, and to vote by proxy if applicable, shall end upon the termination of the state of emergency.
- 13) Requires that the Legislature by concurrent resolution, or each house by separate resolutions, shall adopt rules to implement remote legislative proceedings by a two-thirds rollcall vote before the end of the biennial legislative session in which these provisions take effect.
- 14) Provides that the Legislature or each house, as applicable, may amend rules that implement remote legislative proceedings by a subsequent resolution adopted by a two-thirds rollcall vote.
- 15) Requires that the resolution adopted by the Legislature, or each house, shall specify rules for remote attendance and voting, and shall include procedures for authenticating a Member's remote attendance and voting.
- 16) Provides that the resolution may permit Members to vote by proxy, in which case the resolution shall specify rules for this method of voting and shall include procedures for authenticating a Member's proxy vote.
- 17) Provides that a Member may remotely attend and vote in proceedings as permitted by the Member's house prior to adoption of the resolution implementing remote legislative proceedings.

**EXISTING LAW:**

- 1) Provides, pursuant to Section 2 of Article IV of the California Constitution, that the Senate has a membership of 40 Senators and the Assembly has a membership of 80 Members.
- 2) Requires, pursuant to Section 3 of Article IV of the California Constitution, that the Legislature convene in regular session on specified dates.
- 3) Provides, pursuant to Section 7 of Article IV of the California Constitution, that a majority of the membership constitutes a quorum in each house, although a smaller number may recess from day to day and compel the attendance of absent members.

- 4) Requires, pursuant to Section 7 of Article IV of the California Constitution, that the proceedings of each house and the committees thereof shall be open and public; and, recognizes the right of the public to attend, record, and broadcast those proceedings.
- 5) Requires, pursuant to Section 7 of Article IV of the California Constitution, that the Legislature make audiovisual recordings of all open and public proceedings, and make those recordings available to the public within 24 hours after the proceedings.
- 6) Authorizes, pursuant to Section 21 of Article IV of the California Constitution, the Legislature to provide for the convening of the Legislature to meet the needs resulting from war-caused or enemy-caused disaster in California, including filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.

**FISCAL EFFECT:** ACA 25 is keyed non-fiscal.

**COMMENTS:**

- 1) Purpose: In support of ACA 25, the author states:

California is the fifth largest economy in the world with a population of over 40 million and growing. We have a full time Legislature which, under normal circumstances, is able to be nimble and respond by passing urgency legislation and adjust spending priorities, in real time, when conditions warrant. However, it took a worldwide pandemic for us to discover that California government is unable to continue to function during such an emergency. The legislative branch of government has no authority to convene remotely during an emergency where it would be unsafe for members to gather and meet in person. ACA 25 seeks to put before the voters a Constitutional amendment that would require both houses of the Legislature to adopt rules by a two-thirds vote that would allow for the sworn duties of the Legislature to continue and to require such rules to provide for and maintain maximum transparency and visibility by the public.

- 2) Remote participation in other states: According to information from the National Conference of State Legislatures (“NCSL”), remote participation is currently allowed in Oregon and Wisconsin if emergencies exist. Oregon voters approved a constitutional amendment in 2012 that defined “catastrophic disaster” and granted additional powers to the governor and legislatures. Wisconsin’s constitutional provision authorizes the legislature to “adopt such other measures that may be necessary and proper”, which included a statute allowing for virtual meetings of the legislature and legislative committees when an emergency or imminent threat of one exists.
- 3) Arguments in Opposition: The Institute of Governmental Advocates (IGA) opposes ACA 25 as “unnecessary and unwise” and argues that “ACA 25 would allow the Legislature to dispense with the open and public meeting requirements at any time during the pendency of a state of emergency. The definition of state of emergency is so overly broad that it would authorize the Legislature to act in the dark at almost any time it so desires. Moreover, Governors have a long history of making emergency declarations, but never rescinding such declarations once the emergency has ended.”

The proponents of the California Legislature Transparency Act (“CLTA”), Charles T. Munger, Jr. and Sam Blakeslee, argue that “ACA 25 guts the provisions on transparency in the California Legislature that the voters enacted by passing Proposition 54. When we wrote Proposition 54 we included the right of the public to record the proceedings of the legislature in the public’s right to attend. ACA 25 removes the public’s right to attend, and therefore any ability for a member of the public to record what happens in a public proceeding of the legislature that members of the Legislature would prefer there be no awkward, indisputable, and telling evidence of.”

- 4) COVID-19 Response: According to the NCSL, between March and May 2020, at least 20 states, the District of Columbia, Guam, and the Virgin Islands have changed procedures to allow for remote participation as a result of the COVID-19 pandemic. ACA 25 provides California, subject to voter approval, the similar ability to allow for remote legislative proceedings.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

None received

##### **Opposition**

Charles T. Munger, Jr. and Sam Blakeslee (CLTA Proponents)  
Institute of Governmental Advocates

**Analysis Prepared by:** Michael Erke / RLS. / (916) 319-2800

## Assembly Constitutional Amendment

No. 25

**Introduced by Assembly Members Mullin, Ting, Cooley, and  
Waldron**

**(Principal coauthors: Assembly Members Bonta, Chiu, Gipson,  
and Low)**

**(Coauthors: Assembly Members Aguiar-Curry, Berman, Bloom,  
Cunningham, Daly, Eggman, Kalra, Levine, Nazarian, Quirk,  
Quirk-Silva, Reyes, Luz Rivas, Blanca Rubio, Smith, and Wicks)**

May 21, 2020

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Assembly Constitutional Amendment No. 25—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 21.5 to Article IV thereof, relating to the Legislature.

### LEGISLATIVE COUNSEL’S DIGEST

ACA 25, as introduced, Mullin. State of emergency: remote legislative proceedings.

The California Constitution requires the Legislature to convene in regular session on specified dates and provides that a majority of the membership constitutes a quorum, although a lesser number may recess from day to day and compel the attendance of absent members. The California Constitution requires the proceedings of each house of the Legislature to be open and public and recognizes the right of the public to attend, record, and broadcast those proceedings. The California Constitution authorizes the Legislature to provide for the convening of the Legislature to meet the needs resulting from a war-caused or enemy-caused disaster in the state.



This measure would permit Members to remotely attend and vote in a legislative proceeding, or to vote by proxy in a legislative proceeding if permitted by their house, during the pendency of a state of emergency declared by the Governor or the President of the United States, under specified conditions. The measure would provide, among other conditions, that a Member attending remotely would be included in the determination of a quorum.

The measure would provide that if  $\frac{1}{5}$  or more of the Members of a house cannot attend a proceeding during a state of emergency because they are deceased, disabled, or missing, a quorum may be established by a majority of those Members able to attend. The measure would specify that the Legislature may provide by statute for temporarily filling the vacant offices of Members with pro tempore members in the event that  $\frac{1}{5}$  or more of the Members of a house are deceased, disabled, or missing during a state of emergency.

The measure would permit the Legislature to restrict the public's physical access to a proceeding subject to this provision if warranted by the circumstances of the state of emergency or by the manner in which the proceeding was conducted, subject to an aggrieved party's right to challenge the restriction in a civil action.

The measure would require the Legislature by concurrent resolution, or each house by separate resolutions,  $\frac{2}{3}$  of the membership concurring, to adopt rules to implement this provision no later than the end of the biennial legislative session in which this measure takes effect, except as specified.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

1     *Resolved by the Assembly, the Senate concurring,* That the  
2     Legislature of the State of California at its 2019–20 Regular  
3     Session commencing on the third day of December 2018,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California that the  
6     Constitution of the State be amended as follows:  
7     That Section 21.5 is added to Article IV thereof, to read:  
8     SEC. 21.5. (a) To conduct the business of the people and to  
9     maintain continuity of government, Members of the Legislature,  
10    through the use of technology and without being physically present  
11    in the State Capitol, may attend and vote remotely in a legislative  
12    proceeding, or vote by proxy in a legislative proceeding if

1 authorized by their house pursuant to subdivision (h), during the  
2 pendency of a state of emergency declared by the President of the  
3 United States or the Governor.

4 (b) For purposes of remote participation in a legislative  
5 proceeding during a state of emergency, the following shall apply:

6 (1) The vote of a Member remotely attending a proceeding shall  
7 have the same force and effect as if the Member were physically  
8 present in the State Capitol.

9 (2) A Member remotely attending a proceeding shall be included  
10 in the determination of a quorum.

11 (3) Except as provided in paragraph (4), the participation of a  
12 Member remotely attending a proceeding shall be included in the  
13 audiovisual recording required by paragraph (2) of subdivision (c)  
14 of Section 7.

15 (4) (A) A house, or the Legislature if a proceeding involves  
16 Members from both houses, may waive the requirements of  
17 paragraph (2) of subdivision (c) of Section 7 by a rollcall vote  
18 entered in the journal, two-thirds of the membership concurring,  
19 if compliance is not practicable under the circumstances of the  
20 state of emergency.

21 (B) Notwithstanding paragraph (1) of subdivision (c) of Section  
22 7, a house, or the Legislature if a proceeding involves Members  
23 from both houses, may restrict the public's physical access to a  
24 proceeding if such access is not practicable under the circumstances  
25 of the state of emergency or due to the manner in which the  
26 proceeding is conducted. Restrictions shall be no greater than  
27 necessary to ensure the health and safety of Members, legislative  
28 employees, and members of the public.

29 (C) An aggrieved party shall have standing to challenge a waiver  
30 adopted pursuant to subparagraph (A), or a restriction made  
31 pursuant to subparagraph (B), in an action for declaratory and  
32 injunctive relief.

33 (c) As used in this section, "state of emergency" means the  
34 existence of conditions of disaster or of extreme peril to the safety  
35 of persons and property within the State, or parts thereof, including,  
36 but not limited to, such conditions as an attack or probable or  
37 imminent attack by an enemy of the United States, fire, flood,  
38 storm, insurrection, earthquake, volcanic eruption, or pandemic  
39 or other public health emergency.

1 (d) The Legislature, or each house, shall choose technology to  
2 effectuate this section that furthers the goals of security, the  
3 integrity and efficiency of the legislative process, and accessibility  
4 for Members who participate in proceedings remotely and members  
5 of the public who seek to view proceedings conducted by remote  
6 participation.

7 (e) Notwithstanding any other provision of this Constitution, if  
8 one-fifth or more of the Members of a house are unable to attend  
9 a legislative proceeding during a state of emergency because they  
10 are deceased, disabled, or missing, a quorum of the house shall be  
11 established by a majority of its Members able to attend.

12 (f) The Legislature may provide by statute for the temporary  
13 filling of vacant offices of Members with pro tempore members  
14 in the event that one-fifth or more of the Members of a house are  
15 deceased, disabled, or missing during a state of emergency.

16 (g) A Member's authorization to attend and vote remotely, and  
17 to vote by proxy if applicable, shall end upon the termination of  
18 the state of emergency.

19 (h) (1) The Legislature by concurrent resolution, or each house  
20 by separate resolutions, shall, by rollcall vote entered in the journal,  
21 two-thirds of the membership concurring, adopt rules to implement  
22 this section before the end of the biennial legislative session in  
23 which this section takes effect, or before the end of the next  
24 biennial legislative session if this section takes effect between  
25 sessions. The Legislature or each house, as applicable, may amend  
26 rules adopted pursuant to this paragraph by subsequent resolution,  
27 by rollcall vote entered in the journal, two-thirds of the membership  
28 concurring.

29 (2) A resolution adopted pursuant to paragraph (1) shall specify  
30 rules for remote attendance and voting, and shall include  
31 procedures for authenticating a Member's remote attendance and  
32 voting. The resolution may permit Members to vote by proxy, in  
33 which case the resolution shall specify rules for this method of  
34 voting and shall include procedures for authenticating a Member's  
35 proxy vote.

1 (3) Until a resolution described in paragraph (1) is adopted and  
2 applicable to a Member's house, a Member may remotely attend  
3 and vote in proceedings as permitted by the Member's house.  
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**CORRECTIONS:**

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**Heading—Line 5.**

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To: The Honorable Ken Cooley, Chair of the Assembly Rules Committee  
The Honorable Jordan Cunningham, Vice Chair of the Assembly Rules Committee  
RE: Proposition 54 proponents' Opposition to ACA 25 (

June 1, 2020

Dear Chair Cooley and Members,

This letter supersedes the letter sent earlier today.

We, the proponents of Proposition 54, the *California Legislative Transparency Act*, herewith register our opposition to ACA 25, by Mullin: *State of emergency: remote legislative proceedings*. As the proponents Proposition 54, the citizen's initiative whose provisions ACA 25 would void, we request the opportunity to testify as official witnesses before the Assembly Rules Committee hearing on ACA 25.

ACA 25 guts the provisions on transparency in the California Legislature that the voters enacted by passing Proposition 54.

The notion that it would be possible for legislators `` through the use of technology and without being physically present in the State Capitol,” to “attend and vote remotely in a legislative proceeding,” without it also being possible to record the proceedings and post them on the Internet within 24 hours, is a palpable absurdity.

If a legislator is able to send and receive audio and visual information from his home, then by definition there are devices that are receiving and transmitting the signals, whose feeds can be recorded and later posted. Allowing the Legislature at its whim to decide it is not necessary to post this information is to allow the Legislature to legislate in the dark, at its whim (should posting it the Legislature should decide it to be, in the language of ACA 25, “not practicable”).

That the mere existence of ``a state of emergency declared by the President of the United States or the Governor” would justify excluding the public from legislative proceedings, eliminating the right of the public to record them, or relieving the Legislature of its obligation to record and post its public proceedings, all in violation of the California Constitution, is also absurd.

States of emergency arise somewhere in California for local storms or fires or floods or droughts or riots all the time. None of these have historically affected the ability of the Legislature to convene and to meet the transparency provisions in the Constitution, or indeed to meet with the public present before those provisions were enacted. Once such an emergency with only local scope is declared, formally rescinding it is seldom a priority; the result is that there will always be an `emergency,' still officially declared and not rescinded, somewhere in California that would empower the Legislature to exclude the public and operate in the dark whenever it wished. There need not even be a vote taken on the matter, if a house vested the power in a single individual to exclude the public by some standing rule.

True, ACA 25 states, “(c) As used in this section, “state of emergency” means the existence of conditions of disaster or of extreme peril to the safety of persons and property within the State, or parts thereof, including, but not limited to, such conditions as an attack or probable or imminent attack by an enemy of the United States, fire, flood, storm, insurrection, earthquake, volcanic eruption, or pandemic or other public health emergency.”

But you will note the qualifiers “within the state, or parts thereof”, and “including but not limited to, such conditions as [a list that includes “volcanic eruptions”]”. As written, a state of emergency in a part of California howsoever small, would be acceptable. And the clause “including but not limited to” allows unlimited discretion to the legislature to include virtually any event, however inconsequential in scale, on the list of included and therefore acceptable conditions.

When we wrote Proposition 54 we included the right of the public to record the proceedings of the legislature in the public’s right to attend. ACA 25 removes the public’s right to attend, and therefore any ability for a member of the public to record what happens in a public proceeding of the legislature that members of the Legislature would prefer there be no awkward, indisputable, and telling evidence of. At the same time, the Legislature empowers itself to not make, or if it makes, withhold from the public, the recording it is currently obliged under the Constitution to make and post of its public proceedings. The legislature merely has to vote that “compliance is not practicable under the circumstances of the emergency.”

Can the Legislature tell us under what kind of ‘emergency’ it will be possible for the Legislature to convene as usual under the dome, but impossible to have a video camera operating? Or if the Legislature is not convening under the dome, and therefore would be convening using audiovisual signals sent and received from members of the Legislature in remote locations, under what kind of ‘emergency’ it will be impossible to have those signals recorded, and then posted on the Internet within 24 hours, as the Constitution currently requires? If it is “not practicable under the circumstances of the emergency,” will it not be only because the Legislature had determined to *make* it impracticable?

The public is left with no record at all of how their representatives really argued or failed to argue, acted or failed to act, not under some condition of actual desperation, but at whim. This is a government that can be held accountable?

Supposedly if the Legislature were to exclude the public by an unwise rule, “An aggrieved party shall have standing to challenge a waiver adopted pursuant to subparagraph (A), or a restriction made pursuant to subparagraph (B), in an action for declaratory and injunctive relief.” But this isn’t the protection currently in the Constitution against unwise rules, which is (Article IV, Section 7(c))

Any aggrieved party shall have standing to challenge said rules in an action for declaratory and injunctive relief, *and the Legislature shall have the burden of demonstrating that the rule is reasonable.*

Remember, ACA 25 allows the Legislature to exclude the public, stop all audio-visual recordings by the public, and refrain from making or releasing any recordings of its own. Without the burden of proof that a rule is reasonable being *on the Legislature*, any action against the Legislature’s rules, however unreasonable those rules may be, must fail—because the Legislature can avoid preserving, or elect to withhold, all the evidence. With the burden of proof being put on the party bringing the suit, without the above language *currently in the California Constitution*, a successful case would be impossible. This voids the protection written into the Constitution by Proposition 54.

This is not an exhaustive list of the deficiencies of ACA 25, and should not be taken as such; nor does the fact that we do not take up other issues, such as the issue of voting by proxy, mean that those issues are not equally important.

This note supersedes the other filed earlier today.

Sincerely yours,

Dr. Charles T. Munger, Jr.

Honorable Sam Blakeslee

Proponents, California Proposition 54.



June 1, 2020

The Honorable Ken Cooley  
Chair of the Assembly Rules Committee

The Honorable Jordan Cunningham  
Vice Chair of the Assembly Rules Committee

*RE: Institute of Governmental Advocates Opposition to ACA 25*

Dear Chair Cooley and Members:

The Institute of Governmental Advocates (IGA) is a voluntary, non-partisan association representing the leading professional lobbyists and lobbying firms in California. We oppose ACA 25, as presented. The Legislature should never reject, even in the face of crisis, the structural underpinnings of our representative democracy as enumerated in our State Constitution. These foundational constitutional provisions include:

- 1) "The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good" (Art. I, § 3(a).)
- 2) "The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." (Art. I, § 3(b).)
- 3) "Except as provided in paragraph (3) [permissible closed session matters], the proceedings of each house and the committees thereof shall be open and public." (Art. IV, § 6(c).)
- 4) "The right to attend open and public proceedings includes the right of any person to record by audio or video means any and all parts of the proceedings and to broadcast or otherwise transmit them..." (Id.)
- 5) "The Legislature shall also cause audiovisual recordings to be made of all proceedings subject to paragraph (1) in their entirety, shall make such recordings public through the Internet within 24 hours after the proceedings have been recessed or adjourned for the day, and shall maintain an archive of said recordings..." (Id.)
- 6) "No bill may be passed or ultimately become a statute unless the bill with any amendments has been printed, distributed to the members, and published on the Internet, in its final form, for at least 72 hours before the vote, except [for bills necessary to address the declared state of emergency by the Governor]." (Art. IV, § 8(b)(2).)



Letter to Assembly Rules Committee  
Re: Opposition to ACA 25  
June 1, 2020  
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In addition, our Constitution requires legislative action to be taken by “rollcall vote entered into the journal” (See, e.g. Art. IV, sec. §§ 7, 8, 10).

ACA 25 would allow legislative business to be conducted “without being physically present” and/or by “proxy voting” during “the pendency of a state of emergency declared by the President... or the Governor.” We believe that “the business of the people” should never be conducted in this manner – under any circumstance. Indeed, our Constitution does not presently dispense with these foundational principles even in the face of “war-caused or enemy-caused disaster” (Art. IV, § 21). ACA 25 cavalierly dispenses with these principles upon the simple declaration of the President or Governor.

As presently drafted, ACA 25 would allow the Legislature to dispense with the open and public meeting requirements at any time “during the pendency of a state of emergency.” The definition of “state of emergency” is so overly broad (e.g. “conditions of disaster...within the State, or parts thereof”) that it would authorize the Legislature to act in the dark at almost any time it so desires. Why should a “storm” in Los Angeles causing the Governor to issue a declaration of emergency cause the Legislature to abandon its public meeting requirement in Sacramento?

Moreover, Governors have a long history of making emergency declarations, but never rescinding such declarations once the emergency has ended.<sup>1</sup> As an example, on December 23, 2019, Governor Newsom issued a proclamation declaring that over 70 prior declarations of emergency, dating back to 2011, no longer existed and therefore should be rescinded (copy of Proclamation attached).

In addition, as shown by the Proclamation, just a couple of the 70 declarations of emergency affected the Sacramento region at all. Indeed, even the Great Flood of 1862, which did affect the Capital building, merely resulted in the temporary re-siting of the Legislature to San Francisco. (See, Theodore H. Hittell, History of California vol. 14 (1898) p. 295, N.J. Stone & Co., San Francisco; and Senate Journal, 1862 p. 105; and Assembly Journal, 1862 p. 104)

Under ACA 25, as written, the Legislature could have dispensed with all of its public meeting requirements on November 30, 2018 when the Governor declared a state of emergency in Shasta County as a result of fire – that declaration was in place for over a year. Indeed, there was a Declaration of Emergency in place at one point or another during every year over the last decade or more.

Additionally, IGA opposes the use of “proxy voting” under any scenario. While ACA 25 does not provide the rules for such proxy voting, we believe such a process to be fundamentally antithetical to representative democracy. Moreover, such is unnecessary as the Constitution

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<sup>1</sup> ACA 25 would also allow the President to make such a Declaration. We see no reason why such authority should be extended to the President.

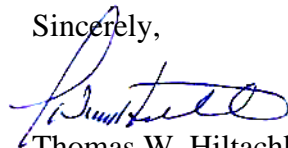
Letter to Assembly Rules Committee  
Re: Opposition to ACA 25  
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presently authorizes the Legislature to “compel the attendance of absent members” (Art. IV, § 7(a).)

Finally, ACA 25 requires the Legislature to adopt rules to implement its provision, but those rules will only apply to one session of the Legislature and even then, such rules are subject to amendment. For example, a rule that authorized a member to vote just one proxy vote could be easily amended to allow a single member to vote 10, 20, 30, 40, 50, 60, 70, or even 79 other Assembly member votes. Such should never be permissible, under any situation, under our system of government.

In summary, IGA opposes ACA 25 as unnecessary and unwise. Thank you for your consideration of our concerns.

Sincerely,



Thomas W. Hiltachk,  
IGA General Counsel

**EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA**

**A PROCLAMATION  
BY THE GOVERNOR OF THE STATE OF CALIFORNIA  
TERMINATING STATES OF EMERGENCY**

**I, GAVIN NEWSOM**, Governor of the State of California, having found pursuant to Government Code section 8629 that the conditions of extreme peril to the safety of persons and property declared in the state of emergency proclamations listed below no longer exist, therefore proclaim that the state of emergency proclamations previously issued on the following dates and in the following jurisdictions no longer exist, effective immediately:

PROCLAMATIONS		
Fire	11/30/18	Shasta
Storms	7/24/18	San Bernardino
Storms	4/19/18	Amador, Fresno, Kern, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne
Fire	12/7/17	San Diego
Fire	12/5/17	Los Angeles
Fire – Accompanying Executive Order B-47-18	1/17/18	Los Angeles
Snow	10/27/17	Inyo and Mono
Fire	9/7/17	Madera, Mariposa and Tulare
Fire	9/3/17	Los Angeles
Fire	8/31/17	Trinity
Storms	8/29/17	Siskiyou
Fires	8/2/17	Modoc
Storms	8/1/17	San Bernardino
Fire	7/18/17	Mariposa
Fire – Accompanying Executive Order B-41-17	7/20/17	Mariposa
Fire	7/16/17	Santa Barbara
Fire	7/9/17	Butte
Storms	5/15/17	Mono County
Storms	4/28/17	Alameda, Calaveras, Contra Costa, Inyo, Modoc and Mono
Storms	1/23/17	Alameda, Alpine, Butte, Calaveras, Contra Costa, El Dorado, Fresno, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San



		Bernardino, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba
Storms – Accompanying Executive Order B-38-17	2/10/17	Multiple Counties
Fire	8/16/16	San Bernardino
Fire	8/15/16	San Luis Obispo
Fire	8/15/16	Lake
Fire	7/26/16	Los Angeles
Fire	7/26/16	Monterey
Fire	6/24/16	Kern
Storms	6/6/16	City of Del Mar
Storms	4/19/2016	Alameda, Contra Costa, Del Norte, Humboldt, Mendocino, Napa, San Mateo, Santa Clara, Santa Cruz, Sonoma, and Trinity
Storms	2/29/2016	City of Carlsbad
Storms	2/1/2016	Inyo, Kern, Los Angeles
Terrorist Attack	12/18/2015	San Bernardino
Fire	9/13/2015	Lake and Napa
Fire	9/11/2015	Amador and Calaveras
Fire – Accompanying Executive Order B-35-15	10/1/15	Calaveras and Lake
Fire	7/31/2015	Statewide
Fire – Accompanying Executive Order B-33-15	8/27/15	Lake and Trinity
Storms	7/22/2015	Imperial, Kern, Los Angeles, Riverside, San Bernardino, and San Diego
Storms	5/19/2015	Humboldt, Mendocino, and Siskiyou
Storms	3/2/2015	Alameda, Contra Costa, Del Norte, Humboldt, Lake, Los Angeles, Monterey, Orange, San Francisco, Santa Clara, Shasta, Sonoma, Tehama, and Yolo
Fire	2/26/2015	Mono
Storms	12/22/2014	Marin, Mendocino, San Mateo, and Ventura
Fire	9/17/2014	El Dorado and Siskiyou
Earthquake	8/24/2014	Napa, Solano, and Sonoma

Earthquake – Accompanying Executive Order B-24-14	9/2/14	Napa, Solano, and Sonoma
Fire	8/2/2014	Statewide
Fire – Accompanying Executive Order B-25-14	9/11/14	Amador, Butte, El Dorado, Humboldt, Lassen, Madera, Mariposa, Mendocino, Modoc, Shasta, and Siskiyou
Fire	5/14/2014	San Diego
Fire – Accompanying Executive Order B-27-14	10/6/14	Siskiyou
Storms	4/29/2014	Los Angeles
Fire	10/31/2013	Shasta
Storms	9/30/2013	Inyo
Gasoline Spill	9/20/2013	Los Angeles
Fire	8/29/2013	Mariposa
Fire	8/23/2013	City and County of San Francisco
Fire	8/22/2013	Tuolumne
Fire – Accompanying Executive Order B-23-13	10/23/13	Mariposa, San Francisco, and Tuolumne
Fire	8/09/2013	Riverside
Fire	7/19/2013	Riverside
Fire	7/12/2013	Los Angeles
Storms	2/28/2013	San Mateo
Fire	8/22/2012	Plumas, Shasta, and Tehama
Fire	12/20/2011	Los Angeles
Wind	12/9/2011	Los Angeles and City of Rancho Cucamonga
Storms	7/12/2011	Marin
Storms	4/15/2011	Alameda, Amador, Butte, Contra Costa, Del Norte, Humboldt, Madera, Mariposa, Mendocino, Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, Sierra, Stanislaus, Sutter, Trinity, Tuolumne, and Ventura
Tsunami	3/16/2011	Mendocino and San Luis Obispo
Tsunami	3/11/2011	Del Norte, Humboldt, San Mateo, and Santa Cruz
Tsunami – Accompanying Executive Order B-4-11	3/17/11	Del Norte, Humboldt, San Luis Obispo, San Mateo, and Santa Cruz
Storms	3/3/2011	Modoc
Storms	1/27/2011	Madera



**I FURTHER DIRECT THAT** as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

**IN WITNESS WHEREOF** I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 23rd day of December 2019.



A handwritten signature in black ink, appearing to read "Gavin Newsom", written over a horizontal line.

GAVIN NEWSOM  
Governor of California

**ATTEST:**

A handwritten signature in black ink, appearing to read "Alex Padilla", written over a horizontal line.

ALEX PADILLA  
Secretary of State

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# California State Senate

SENATOR  
THOMAS J. UMBERG  
THIRTY-FOURTH SENATE DISTRICT



STANDING COMMITTEES  
ELECTIONS AND  
CONSTITUTIONAL AMENDMENTS  
CHAIR  
JUDICIARY  
VETERANS AFFAIRS  
HOUSING  
TRANSPORTATION  
  
SELECT COMMITTEES  
GROWING IMPACT OF  
ARTIFICIAL INTELLIGENCE IN CALIFORNIA  
CHAIR  
JOINT SELECT COMMITTEE ON  
THE 2020 US CENSUS  
CO-CHAIR  
AEROSPACE AND DEFENSE  
ASIAN PACIFIC ISLANDER AFFAIRS  
MANUFACTURED HOME COMMUNITIES  
  
JOINT COMMITTEES  
RULES

May 26, 2020

Hon. Ken Cooley, Chair  
Assembly Committee on Rules  
State Capitol, Room 3016  
Sacramento, CA 95814

Re: SB 423 (Umburg) Urgency Clause Request

Dear Chairman Cooley:

The purpose of this letter is to request that the Assembly Committee on Rules approve an urgency clause for my Senate Bill 423, which is currently pending in the Assembly Committee on Elections, and Redistricting.

As you know, the Governor recently issued an executive order to require that every registered California voter receive a ballot in the mail for the November 3, 2020 Statewide General Election in light of the COVID-19 pandemic. Assembly Bill 860 (Berman), currently pending in the Senate, will also provide for the same.

SB 423 currently declares the intent of the Legislature to enact legislation to require county elections officials to additionally establish and maintain a minimum number of polling places and vote centers for the November 3, 2020 Statewide General Election. However, it will soon be expanded to include all of the necessary details to ensure California voters will have an ample number of safe, secure, and accessible in-person voting opportunities for the General Election in a manner that is both logistically and fiscally achievable by our county elections officials and the Secretary of State.

Should you need additional information, please feel free to reach out to Darren Chesin, Chief Consultant to the Senate Committee on Elections and Constitutional Amendments at (916) 215-0533 or myself directly.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "T. Umburg".

THOMAS J. UMBERG  
Senator, 34<sup>th</sup> District

AMENDED IN ASSEMBLY MAY 27, 2020

AMENDED IN ASSEMBLY MAY 5, 2020

AMENDED IN SENATE APRIL 9, 2019

## SENATE BILL

**No. 423**

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**Introduced by Senator Umberg and Assembly Member Berman**

February 21, 2019

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*An act to add and repeal Chapter 7 (commencing with Section 1600) of Division 1 of the Elections Code, relating to elections.*

### LEGISLATIVE COUNSEL'S DIGEST

SB 423, as amended, Umberg. ~~Elections: vote centers and polling places.~~ *November 3, 2020, statewide general election.*

*Existing law authorizes counties, on or after specified dates, to conduct any election as an all-mailed ballot election if, among other conditions, the county elections official provides for ballot drop-off locations and vote centers meeting minimum requirements. Vote centers are required to be open from the 10th day before the election until election day, as specified.*

*This bill would authorize a county for the November 3, 2020, statewide general election to not have its vote centers open before the 3rd day prior to the election.*

*In counties without all-mailed ballot procedures, existing law requires the elections official to divide the jurisdiction into precincts meeting certain requirements and to designate a polling place for each precinct.*

*This bill would provide an alternative procedure for the November 3, 2020, statewide general election authorizing the elections official to establish consolidated precinct boards, located within the same physical*



*polling place, serving the voters residing in multiple adjacent precincts, as provided.*

*For the November 3, 2020, statewide general election, the bill would also (1) require elections officials to conduct a voter education and outreach campaign, (2) urge counties to provide drive-through ballot drop-off or voting locations, (3) authorize elections officials to establish vote centers, polling places, or consolidated polling places in locations whose primary purpose is the sale and dispensation of alcoholic beverages, (4) require the Secretary of State to establish a process to consider requests from counties to adjust or waive the minimally required number, or operational duration, of vote centers, consolidated polling places, or ballot drop-off locations, (5) require the Secretary of State to conduct a statewide voter education and outreach campaign regarding new procedures in place for the election, and (6) require the Secretary of State to establish a strike team to assist counties as needed to acquire suitable locations for vote centers, polling places, and consolidated polling places as well as other assets necessary for the safe and successful conduct of the election.*

*By imposing new requirements on counties, the 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.*

~~Existing law requires a vote by mail voter to return a voted vote by mail ballot to various locations including a polling place or vote center. Existing law imposes various requirements on voting locations that qualify as “vote centers,” including the number of locations that must be open and their hours of operation.~~

~~This bill would declare the intent of the Legislature to enact legislation to require county elections officials to establish and maintain a minimum number of polling places and vote centers for the statewide general election to be held on November 3, 2020.~~

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

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

1     *SECTION 1. (a) The Legislature finds and declares all of the*  
2     *following:*

3     *(1) To maintain a healthy democracy in California, it is*  
4     *important to encourage eligible voters to vote and to ensure that*  
5     *residents of the state have the tools needed to participate in every*  
6     *election.*

7     *(2) When California conducts the November 3, 2020, statewide*  
8     *general election, it is unknown to what degree the COVID-19*  
9     *pandemic will still pose a threat to public health. The state and*  
10    *its counties need to begin taking action now to procure supplies*  
11    *and equipment, secure voting locations, enlist volunteers, and*  
12    *draw up plans, among other steps, to ensure that the November*  
13    *3, 2020, statewide general election is held in a manner that is*  
14    *accessible, secure, and safe.*

15    *(3) To preserve public health in the face of the threat of*  
16    *COVID-19, and to ensure that the November election is accessible,*  
17    *secure, and safe, all Californians will be empowered to vote by*  
18    *mail, from the safety of their own homes, pursuant to Governor*  
19    *Newsom's Executive Order N-64-20, issued on May 8, 2020, and*  
20    *as proposed by Assembly Bill 860 of the 2019–20 Regular Session.*

21    *(4) However, many Californians will still need access to*  
22    *in-person voting opportunities, including, but not limited to,*  
23    *individuals with disabilities, individuals who speak languages*  
24    *other than English, individuals experiencing homelessness,*  
25    *individuals who never received their vote-by-mail ballot, lost or*  
26    *damaged their ballot, or need to register to vote, as well as others*  
27    *who may find vote-by-mail less accessible than in-person voting.*  
28    *We owe these Californians safe in-person voting opportunities*  
29    *this November.*

30    *(b) It is the intent of the Legislature in enacting this act to do*  
31    *all of the following:*

32    *(1) To ensure that the November 3, 2020, statewide general*  
33    *election is conducted in a manner that protects and strengthens*  
34    *access for low-propensity voters and voters who have no history*  
35    *of voting by mail, first-time voters such as young voters and newly*  
36    *naturalized voters, housing insecure voters, and other voters who*  
37    *may be disproportionately impacted by the changes to election*  
38    *procedures that were necessitated by the COVID-19 pandemic.*

1 (2) To ensure that safe, in-person voting opportunities are  
2 available this November in a manner that is consistent with public  
3 health guidance and requirements.

4 (3) To provide flexibility to counties in conducting the election  
5 in recognition of the challenges to election administration posed  
6 by the COVID-19 pandemic, while limiting changes to in-person  
7 voting opportunities to the minimum changes necessary to ensure  
8 that the election can be conducted in a manner consistent with  
9 public health requirements.

10 (4) To redirect any money that is saved from a reduction of  
11 in-person voting locations into voter education and outreach for  
12 the November 3, 2020, statewide general election.

13 SEC. 2. Chapter 7 (commencing with Section 1600) is added  
14 to Division 1 of the Elections Code, to read:

15  
16 CHAPTER 7. NOVEMBER 3, 2020, STATEWIDE GENERAL ELECTION  
17

18 1600. This chapter applies only to the November 3, 2020,  
19 statewide general election.

20 1601. Notwithstanding Sections 4005 and 4007, a county that  
21 conducts the November 3, 2020, statewide general election  
22 pursuant to either of those sections is not required to have its vote  
23 centers open before the third day prior to the election.

24 1602. (a) A county that does not conduct the November 3,  
25 2020, statewide general election pursuant to either Section 4005  
26 or 4007 may choose to follow the procedures described in this  
27 section as an alternative to procedures that would otherwise be  
28 applicable in that county.

29 (b) (1) While maintaining separate geographical precincts  
30 under the existing limits on number of voters provided in Section  
31 12223, the elections official may establish consolidated precinct  
32 boards, located within the same physical polling place, serving  
33 the voters residing in multiple adjacent precincts established  
34 pursuant to Section 12223 at a maximum ratio of one consolidated  
35 precinct board location per 10 precincts, not to exceed a total of  
36 10,000 registered voters per location. These consolidated polling  
37 locations shall be open starting with the Saturday immediately  
38 prior to election day through election day. On the day of the  
39 election, the consolidated polling location shall be open from 7

1 *a.m. to 8 p.m. and on each of the three days before the election,*  
2 *for a minimum of eight hours per day.*

3 *(2) In establishing the consolidated polling places, the elections*  
4 *official shall take into consideration the boundaries of state*  
5 *legislative, congressional, county supervisorial, and any other*  
6 *affected local legislative districts.*

7 *(3) The elections official shall ensure that the consolidated*  
8 *polling places are equitably distributed across the county to afford*  
9 *maximally convenient options for all voters and are established*  
10 *at accessible locations as near as possible to established public*  
11 *transportation routes.*

12 *(4) (A) The consolidated polling places shall be equipped with*  
13 *voting units or systems that are accessible to individuals with*  
14 *disabilities and provide the same opportunity for access and*  
15 *participation as is provided to voters who are not disabled,*  
16 *including the ability to vote privately and independently, in*  
17 *accordance with Sections 12280 and 19240. Each consolidated*  
18 *polling place shall have at least three voting machines that are*  
19 *accessible to voters with disabilities.*

20 *(B) The consolidated polling places shall comply with the*  
21 *accessibility requirements described in Article 5 (commencing*  
22 *with Section 12280) of Chapter 3 of Division 12, the federal*  
23 *Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et*  
24 *seq.), the federal Help America Vote Act of 2002 (52 U.S.C. Sec.*  
25 *20901 et seq.), and the federal Voting Rights Act of 1965 (52 U.S.C.*  
26 *Sec. 10101 et seq.).*

27 *(5) The elections official shall provide each consolidated polling*  
28 *place with enough ballots, provisional ballots, and provisional*  
29 *ballot envelopes to ensure every voter can be accommodated, as*  
30 *necessary.*

31 *(c) (1) In a county with consolidated polling places as described*  
32 *in this section, the elections official shall provide at least two ballot*  
33 *drop-off locations within the county or at least one ballot drop-off*  
34 *location for every 15,000 registered voters, whichever results in*  
35 *more ballot drop-off locations. For purposes of this paragraph, a*  
36 *consolidated polling place that includes an exterior ballot drop*  
37 *box counts only as a single ballot drop-off location.*

38 *(2) A ballot drop-off location provided for under this subdivision*  
39 *consists of a secure, accessible, and locked ballot box located as*  
40 *near as possible to established public transportation routes and*

1 *that is able to receive voted ballots. All ballot drop-off locations*  
2 *shall be open at least during regular business hours beginning not*  
3 *less than 28 days before the day of the election, and on the day of*  
4 *the election.*

5 *(3) At least one ballot drop-off location shall be an exterior*  
6 *drop box that is available for a minimum of 12 hours per day.*  
7 *Because health directives to prevent the spread of COVID-19 may*  
8 *result in reduced access to some buildings, counties are*  
9 *encouraged to maximize the number of ballot drop-off locations*  
10 *that are exterior drop boxes or that are located in buildings, such*  
11 *as supermarkets or drugstores, that are likely to be considered*  
12 *essential businesses that will remain open to the public*  
13 *notwithstanding any physical distancing measures that are in place*  
14 *during the period beginning 28 days before the date of the election*  
15 *and ending on election day.*

16 *(4) For the purposes of this section, “ballot drop-off location”*  
17 *has the same meaning as in Section 3025.*

18 *(d) (1) In a county with consolidated polling places as described*  
19 *in this section, the elections official shall provide at least one*  
20 *location, open at least during regular business hours beginning*  
21 *28 days before the day of the election, at which a voter may do*  
22 *any of the following:*

23 *(A) Return, or vote and return, the voter’s vote by mail ballot.*

24 *(B) Register to vote, update the voter’s voter registration, and*  
25 *vote pursuant to Section 2170.*

26 *(C) Receive and vote a provisional ballot pursuant to Section*  
27 *3016 or Article 5 (commencing with Section 14310) of Chapter 3*  
28 *of Division 14.*

29 *(D) Receive a replacement ballot upon verification that a ballot*  
30 *for the same election has not been received from the voter by the*  
31 *county elections official. If the county elections official is unable*  
32 *to determine if a ballot for the same election has been received*  
33 *from the voter, the county elections official may issue a provisional*  
34 *ballot.*

35 *(E) Vote a regular, provisional, or replacement ballot using*  
36 *accessible voting equipment that provides for a private and*  
37 *independent voting experience.*

38 *(2) The elections official is urged to offer voters the ability to*  
39 *schedule an appointment to visit a location established pursuant*  
40 *to this subdivision.*

1 (e) In determining the locations of consolidated polling places  
2 and ballot drop-off locations pursuant to this section, the county  
3 shall consider vote center and ballot drop-off location proximity  
4 to communities with historically low vote by mail usage. Counties  
5 shall also consider other criteria described in subparagraph (B)  
6 of paragraph (10) of subdivision (a) of Section 4005, to the extent  
7 data is readily available.

8 (f) Prior to finalizing the locations of consolidated polling places  
9 and ballot drop-off locations, the county elections official shall  
10 publicly notice the proposed consolidated polling place locations  
11 and ballot drop-off locations, shall post a copy of those locations  
12 on the elections official's internet website, and shall accept public  
13 comments on the proposed locations for at least 10 days after  
14 publicly noticing the proposed locations. Following the 10-day  
15 public comment period, the elections official shall consider any  
16 comments the official receives from the public, and shall adjust  
17 consolidated polling place and ballot drop-off locations in response  
18 to the public comments to the extent the official deems appropriate  
19 before finalizing the locations to be used as consolidated polling  
20 places and ballot drop-off locations.

21 1603. (a) Each county shall conduct a voter education and  
22 outreach campaign in all legally required languages notifying  
23 voters about mail ballots, early voting opportunities, and where  
24 and how to remedy any voting related problem.

25 (b) Each county is urged to provide drive-through ballot drop-off  
26 or voting locations. If a voter is waiting in a vehicle, the voter is  
27 considered "in line" for the purposes of keeping the polls open a  
28 sufficient time to enable them to vote pursuant to Section 14401.

29 (c) Notwithstanding Section 12288, an elections official may  
30 establish a vote center, polling place, or consolidated polling place  
31 in a location whose primary purpose is the sale and dispensation  
32 of alcoholic beverages.

33 1604. (a) (1) The Secretary of State shall establish a process  
34 to consider requests from counties to adjust or waive the minimally  
35 required number, or operational duration, of vote centers,  
36 consolidated polling places, or ballot drop-off locations described  
37 in Section 1602 or Sections 4005 and 4007. The process shall  
38 include, but not be limited to, review and modification, denial, or  
39 granting of a county's request in a timeframe to be determined by  
40 the Secretary of State.



(2) (A) Prior to requesting a modification or waiver pursuant to paragraph (1), a county shall develop a draft plan that includes, but is not limited to, a written analysis of in-person voting needs in that county. The written analysis shall identify how the county's proposed levels of in-person voting are designed to safely accommodate the anticipated demand for voting services at those locations, including in-person voting, ballot replacement, ballot drop-off, conditional voter registration, language assistance, and voting assistance, shall report on efforts made to secure the otherwise required number of vote centers, consolidated polling places, and election personnel, and shall include a discussion of how the elections official will ensure that there will not be a disparate impact on any protected class of voters with regard to availability of voting machines and voting locations. In determining in-person voting locations that will be made available pursuant to the plan, the county shall consider the needs of individuals who do not have a history of voting by mail and other criteria described in subparagraph (B) of paragraph (10) of subdivision (a) of Section 4005, to the extent data is readily available.

(B) The county elections official shall publicly notice the draft plan required by subparagraph (A), shall post a copy of the draft plan on the elections official's internet website, and shall accept public comments on the draft plan for at least 10 days after publicly noticing the draft plan.

(C) Following the 10-day review period required by subparagraph (B), the elections official shall consider any public comments the official receives from the public, shall amend the draft plan in response to the public comments to the extent the official deems appropriate, and may adopt a final plan and submit that plan to the Secretary of State along with the request for a modification or waiver pursuant to paragraph (1).

(3) A waiver or modification shall not be granted to a county unless the elections official in that county can demonstrate both of the following:

(A) The official made best efforts to secure the required in-person voting locations.

(B) The plan will not have a negative disparate impact on any protected class of voters.

(4) For the purposes of this subdivision, "protected class" means a class of voters who are members of a race, color, or

1 *language minority group, as this class is referenced and defined*  
2 *in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et*  
3 *seq.).*

4 *(b) The Secretary of State shall conduct a statewide voter*  
5 *education and outreach campaign regarding new procedures in*  
6 *place for the November 3, 2020, statewide general election,*  
7 *including, but not limited to, procedures relating to voting by mail,*  
8 *newly consolidated polling places and services provided therein,*  
9 *available language assistance, voter registration, conditional voter*  
10 *registration and voting, and accessible vote by mail voting.*

11 *(c) The Secretary of State shall establish a strike team to assist*  
12 *counties as needed to acquire suitable locations for vote centers,*  
13 *polling places, and consolidated polling places as well as other*  
14 *assets necessary for the safe and successful conduct of the*  
15 *November 3, 2020, statewide general election. The strike team*  
16 *shall include members of the Secretary of State's legal and*  
17 *investigative divisions as well as Deputy Attorneys General*  
18 *provided for this purpose by the Department of Justice. The strike*  
19 *team shall assist with the enforcement of this code, including, but*  
20 *not limited to, Article 5 (commencing with Section 12280) of*  
21 *Chapter 3 of Division 12 and Chapter 1 (commencing with Section*  
22 *18000) of Division 18. In undertaking its responsibilities, the strike*  
23 *team shall seek to ensure that the November 3, 2020, statewide*  
24 *general election is conducted in a manner that is as consistent as*  
25 *possible with state and federal voting rights laws.*

26 *(d) The Secretary of State is encouraged to work with health*  
27 *officials, elections officials, and other stakeholders to establish*  
28 *guidelines for the use of personal protective equipment by*  
29 *individuals at in-person voting locations, including election*  
30 *workers, precinct board members, and voters. These guidelines*  
31 *may include, but are not limited to, requiring that individuals who*  
32 *are physically present at voting locations wear personal protective*  
33 *equipment when they are required by state or local health*  
34 *guidelines, ensuring that elections officials have sufficient personal*  
35 *protective equipment for use at in-person voting locations by*  
36 *election workers, precinct board members, and voters, and*  
37 *procedures to ensure that voters are not turned away from using*  
38 *in-person voting locations due to a lack of access to the necessary*  
39 *personal protective equipment.*



1     1605. Notwithstanding any other law, a county may only hold  
2     the November 3, 2020, statewide general election in the manner  
3     provided for in this chapter if each voter is also provided a vote  
4     by mail ballot.

5     1606. This chapter shall remain in effect only until January 1,  
6     2021, and as of that date is repealed.

7     SEC. 3. If the Commission on State Mandates determines that  
8     this act contains costs mandated by the state, reimbursement to  
9     local agencies and school districts for those costs shall be made  
10    pursuant to Part 7 (commencing with Section 17500) of Division  
11    4 of Title 2 of the Government Code.

12    ~~SECTION 1. It is the intent of the Legislature to enact~~  
13    ~~legislation to require county elections officials to establish and~~  
14    ~~maintain a minimum number of polling places and vote centers~~  
15    ~~for the statewide general election to be held on November 3, 2020.~~

O