
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguin, Chair
2025 - 2026 Regular

Bill No: AB 331 **Hearing Date:** July 15, 2025
Author: Pellerin
Version: April 21, 2025
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Elections: duties of election officials: voter information guides*

HISTORY

Source: California Attorney General Rob Bonta

Prior Legislation: AB 544 (Bryan), vetoed, 2024
AB 3184 (Berman), Ch. 437, Stats. of 2024
SB 35 (Umberg), Ch. 318, Stats. of 2021

Support: California Common Cause; California Voter Foundation; Ella Baker Center for Human Rights; Initiate Justice; LA Defensa; League of Women Voters of California; Verified Voting

Opposition: None known

Assembly Floor Vote: 71 - 1

PURPOSE

The purpose of this bill is to require the Secretary of State (SOS) and county election officials to prepare voter information guides (VIGs) for county jail facilities, as specified; make it a crime to provide or direct a person to use an unofficial ballot return envelope; and clarify that the duty to certify and report election results is ministerial and nondiscretionary.

Existing law provides that a person who is a U.S. citizen, at least 18 years of age, a resident of the state, and not serving a state or federal prison term for the conviction of a felony may vote. (Cal. Con., art. II, §§ 2, 4.)

Existing law provides that the following acts are punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail for 16 months, two years, or three years, or by both:

- Displaying a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box.
- Directing or soliciting a voter to place a ballot in an unofficial ballot box. (Elec. Code, § 18568, subds. (g)-(h).)

Existing law requires the SOS to produce a state VIG that contains specified information, including, but not limited to, a complete copy of each member, arguments and rebuttals for and

against each state ballot measure, and an analysis of each state ballot measure. (Elec. Code, §§ 9081, 9082, 9084.)

Existing law requires a county elections official to prepare a county VIG by at least 29 days before a primary election. (Elec. Code, § 13300.)

Existing law requires the SOS to establish a process that allows a voter to opt out of receiving a paper copy of the state VIG, and instead to receive it by electronic mail, as specified. (Elec. Code, § 9094.5.)

Existing law authorizes the county and city elections officials to establish a process that allows a voter to opt out of receiving a paper copy of the state VIG, and instead to receive or access it by electronic mail, as specified. (Elec. Code, § 13300.7.)

Existing law requires the SOS to send one copy of the state VIG by mail to each city and county elections official, each member of the Legislature, the proponents of each statewide ballot measure, each public library, and specified educational institutions. (Elec. Code, § 9096.)

Existing law requires the elections official, upon completion of the count, to add to the results as so determined, the results of the write-in votes and any paper ballots used as certified by the precinct board, and thereupon shall declare the vote, and forthwith post one copy at the counting place for public inspection. (Elec. Code, § 15371.)

Existing law requires the elections official to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election, except as specified. (Elec. Code, § 15372, subd. (a).)

Existing law requires the elections official to post the certified statement of the results of the election on the elections official's internet website in a downloadable spreadsheet format. Requires the certified statement of the election results to be posted and maintained on the elections official's website for at least 10 years following the election. (Elec. Code, § 15372, subd. (b).)

Existing law requires the elections official to send to the SOS within 31 days of the election in an electronic format in the manner requested one complete copy of all election results, as specified. (Elec. Code, § 15375, subds. (a)-(f).)

Existing law requires a governing body to declare elected the person having the highest number of votes for that office and to declare the results of each election under its jurisdiction as to each measure voted on at the election. (Elec. Code, § 15400.)

This bill requires the SOS to prepare a state VIG and each county election official to prepare a county VIG for each county jail in California in a format that will be accepted by county jail facilities. Requires the SOS and county election officials to make those guides available to registered voters with a mailing address in a county jail facility.

This bill requires that the number of state and county VIGs made available to registered voters inside each county facility to be equal to either of the following:

- At least 30 percent of the number of registered voters inside the facility if the guides will be in a location accessible to all registered voters.
- Equal to the number of registered voters inside the facility if the guides will be delivered individually to each registered voter.

This bill makes it a crime punishable by a fine not exceeding \$1,000, by imprisonment in a county jail for 16 months, two years, or three years, or by both, to provide an envelope for the purpose of returning a ballot with the intent to deceive a voter into returning a ballot in an unofficial ballot return envelope.

This bill makes it a crime punishable by a fine not exceeding \$1,000, by imprisonment in a county jail for 16 months, two years, or three years, or by both, to direct or solicit a voter to place a ballot in an unofficial ballot return envelope.

This bill clarifies that it is the ministerial and nondiscretionary duty of the governing board to declare the results of each election under its jurisdiction as to each measure voted on at the election.

This bill clarifies that the duty of county elections officials to report election results to the SOS is ministerial and nondiscretionary.

This bill clarifies that the duties of county elections officials to prepare a certified statement of election results and submit it to the governing body as well as post the certified statement of election results on the election official's website are ministerial and nondiscretionary.

This bill requires the SOS, if an elections official fails to prepare a certified statement of the results of an election, to call the violation to the attention of the district attorney of the county or to the Attorney General and may assist the county elections official in discharging the officer's duties.

This bill makes other technical and conforming changes.

COMMENTS

1. Need For This Bill

According to the author:

AB 331 makes technical changes to the Elections Code to ensure timely certification of results, provide voter guides to eligible voters in jails, and clarify that all materials distributed with the intention to mislead voters are unlawful. By clearly defining elections officials' certification duties as ministerial, AB 331 removes any ambiguity that could be potentially exploited by bad actors. Furthermore, AB 331 makes it clear that it is the duty of county elections officials and the Secretary of State to provide voter information guides in a format accepted by jails. These changes will ensure that the Department of Justice, under the Attorney General, can more easily enforce California's voter protection laws.

2. Ongoing Barriers to Voting in County Jails

Although most individuals incarcerated in the state's county jails have the right to vote, this group of voters continues to face barriers to doing so. A recent article laid out the issue:

Most California jails don't offer in-person voting, and voting by mail can be challenging. People might be registered at one address, but even if their mail is being forwarded to their jail, they get released or transferred elsewhere.

Advocates who have tried to help those jailed to vote list a host of hurdles that vary by county. Due to lengthy mail screening, some don't get voter guides in time. Others don't get voter guides at all, because people in jail can only receive mail under a certain page limit, or without staples.

Voter information is key to the process, advocates say — letting people know if they're eligible, or how to register or vote. But advocates face their own barriers, such as limits on how often they can visit jails or how long they can stay. (Sameea Kamal, *Thousands in California's jails have the right to vote—but here's why many won't* (Sept. 16, 2024) available at <<https://calmatters.org/politics/elections/2024/09/california-voters-jails-barriers/>>.)

In order to ensure that individuals incarcerated in county jails receive VIGs, this bill requires the SOS to prepare a state VIG and each county election official to prepare a county VIG for each county jail in California. This bill specifies that the VIGs must be in a format that will be accepted by county jail facilities, and requires the SOS and county election officials to make those guides available to registered voters with a mailing address in a county jail facility.

This bill additionally requires that the number of state and county VIGs made available to registered voters inside each county facility to be equal to either of the following: at least 30 percent of the number of registered voters inside the facility if the guides will be in a location accessible to all registered voters, or equal to the number of registered voters inside the facility if the guides will be delivered individually to each registered voter.

3. Unofficial Vote by Mail Ballot Return Envelopes

During the November 2020 statewide general election, there were reported instances of unauthorized and unofficial vote by mail (VBM) drop boxes. As a result, SB 35 (Umberg), Chapter 318, Statutes of 2021, was enacted to prohibit displaying a ballot collection container with the intent to deceive a voter into casting a ballot and directing or soliciting a voter into casting a ballot in an unofficial ballot collection container. SB 35 also made it a crime to direct or solicit a voter to place a ballot in an unofficial ballot box. These offenses are punishable by a fine of up to \$1,000, imprisonment in a county jail for 16 months, two years, or three years, or by both.

According to the proponents of this bill, the Department of Justice received a report of a potentially misleading ballot return envelope being delivered to a voter during a recent election. To address this issue, this bill adds language related to unofficial ballot return envelopes to the statute that criminalizes displaying a container for the purpose of collecting ballots with the intent to deceive a voter into casting a ballot in an unofficial ballot box.

4. Election Result Certification

An increase in the number of local elections officials nationwide who refused or threatened to refuse to certify election results since 2020 led to the publication of a report with recommendations for states in order to protect the integrity of elections.¹ Among the report's many recommendations was one for "[s]tate election boards, secretaries of state, attorneys general and local prosecutors ... [to] explicitly advise county officials of their non-discretionary certification duties and the penalties for non-compliance before any election." (Citizens for Responsibility and Ethics in Washington, *Election Certification Under Threat: A legal roadmap to protect the 2024 election including from 35 officials who have refused to certify results* (Aug. 2024), p. 6 available at <<https://www.citizensforethics.org/reports-investigations/crew-reports/election-certification-under-threat/>>.)

This bill adopts this recommendation and clarifies that the duties of election officials to certify election results, report election results to the SOS, or declare the results of an election are ministerial and nondiscretionary. This bill also requires the SOS, if an elections official fails to prepare a certified statement of the results of an election, to call the violation to the attention of the district attorney of the county or to the Attorney General and authorizes the SOS to assist the county elections official in discharging its duties.

5. Argument in Support

Attorney General Rob Bonta, the bill's sponsor, writes:

Assembly Bill 331 ... [will] clarify and strengthen California's election laws by ensuring 1) the law is clear that a county's duty to certify and report their election results is ministerial and nondiscretionary, 2) registered voters in jails receive voter information guides, and 3) unofficial ballot return envelopes are not used to mislead voters.

...

... Due to the tight certification deadlines at the local, state and federal levels, it is crucial that California's results are certified on time. Clarity in the law would be beneficial to ensure officials are aware of their nondiscretionary obligation to certify. Additionally, DOJ received reports that registered voters in jails are not receiving voter information guides because these publications are almost always held together by staples, which are often not allowed in the jails. Lastly, DOJ received a report of a potentially misleading ballot return envelope being delivered to a voter and recommends an expansion of California's ballot return protections to establish consequences to deter this type of conduct.

...

The right to vote is sacred, and AB 331 protects this right through several critical, common-sense refinements to California election law.

-- END --

¹ The report did not indicate that any elections officials in the state of California had refused or threatened to refuse to certify election results.