

2008

Assembly Committee on Elections and Redistricting Summary of Legislation 2008

Assembly Committee on Elections and Redistricting

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ASSEMBLY COMMITTEE ON
ELECTIONS AND REDISTRICTING

SUMMARY OF LEGISLATION

— 2008 —

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November 2008

Dear Interested Parties:

This booklet summarizes selected legislation approved by the Assembly Committee on Elections and Redistricting during the 2008 legislative year. Those bills that made it through the legislative process and were subsequently signed or vetoed by the Governor are included. Those bills that failed to reach the Governor's desk are not.

Among the more noteworthy legislation considered and approved by the Committee were measures to allow Californians to register to vote online, to create a public financing pilot project for candidates for Secretary of State, to ensure the integrity of voting systems used in the state, and to protect the right of Californians who are overseas – including members of the military – to vote in California's elections. These are just some of the important reforms approved by the Committee this session. The booklet has a complete listing of other measures.

Unfortunately, many bills approved by the Committee were vetoed by the Governor even though he did not express any objections to the policies proposed by those measures. Instead, the Governor vetoed 11 different bills using an identical veto message stating that he did not have sufficient time to review those measures due to the delay in the passage of the 2008-2009 state budget. The Committee is likely to reconsider some of these measures in upcoming legislative sessions.

Most of the bills signed into law will take effect on January 1, 2009. The full text of legislation summarized in this pamphlet, as well as the committee analysis of those measures, may be viewed on the Internet via the Legislative Counsel's web site (<http://www.leginfo.ca.gov/>).

I hope this publication will be informative and useful as a reference tool. For additional copies or other information concerning Committee activities, please contact us at (916) 319-2094.

Sincerely,

Curren Price

TABLE OF CONTENTS

- ◆ 2008 LEGISLATIVE HIGHLIGHTSPAGE 1
- ◆ 2008 LEGISLATIVE SUMMARYPAGE 2
- ◆ 2008 CHAPTERED BILLS AND RESOLUTIONSPAGE 22
- ◆ 2008 VETOED BILLS.....PAGE 23

KEY TO ABBREVIATIONS USED

N/R: Vote Not Relevant

28.8: Bill reported to Senate Floor pursuant to Senate Rule 28.8, which provides that bills referred to the Senate Appropriations Committee that do not have significant state costs shall be reported to the Senate Floor without a hearing by the Appropriations Committee.

29.10: Bill referred to policy committee pursuant to Senate Rule 29.10, which provides that a bill that has been substantially amended since approval by a policy committee may be re-referred to a policy committee.

77.2: Bill referred to policy committee pursuant to Assembly Rule 77.2, which provides that a bill that has been substantially amended since approval by a policy committee may be re-referred to a policy committee.

ASSEMBLY COMMITTEE ON ELECTIONS & REDISTRICTING 2008 LEGISLATIVE HIGHLIGHTS

VOTER REGISTRATION:

California joined Arizona and Washington as just the third state in the nation to enact legislation allowing voters to register to vote over the Internet. Online voter registration is expected to make it easier and faster for Californians to register to vote, or to re-register after moving, and should give California voters greater confidence that their voter registration has been received and processed. At the same time, voters who choose to register online will help reduce errors in the state's voter registration database while saving time and money that elections officials would otherwise spend on processing voter registration cards.

CAMPAIGN FINANCE:

Voters will have the opportunity in 2010 to vote on whether to create a public financing pilot project for candidates for Secretary of State as a result of legislation approved by the Committee. If voters approve the measure, candidates for Secretary of State in 2014 and 2018 would qualify for public campaign financing by collecting \$5 contributions from 7,500 registered voters. In exchange, participating candidates agree to forego any other private fundraising for their campaigns.

INITIATIVE PROCESS:

To protect the integrity of the initiative, referendum, and recall processes, the Legislature passed a measure that allows the proponents of a ballot measure to be held criminally liable when they allow their circulators to commit fraud when collecting signatures on petitions. Another measure approved by the Committee would have streamlined the process whereby the Legislative Analyst prepares fiscal estimates for proposed state initiatives.

OVERSEAS VOTERS:

In order to ensure that Californians who are overseas—including members of the military—are able to vote without having to worry that their ballots will be delayed, the Legislature enacted a measure to extend a law that allows overseas voters to return their ballots by fax.

ASSEMBLY COMMITTEE ON ELECTIONS & REDISTRICTING 2008 LEGISLATIVE SUMMARY

AB 583 (HANCOCK)

CHAPTER 735, STATUTES OF 2008

POLITICAL REFORM ACT OF 1974: CALIFORNIA FAIR ELECTIONS ACT OF 2008.

[Adds Chapter 7 (commencing with Section 20600) to Division 20 of the Elections Code, adds and repeals Chapter 12 (commencing with Section 91015) of Title 9 of, and repeals Sections 85300 and 86102 of, the Government Code, and adds and repeals Article 8.6 (commencing with Section 18798) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code]

AB 583 proposes to create a pilot project whereby candidates for Secretary of State would be eligible to receive public campaign funds for the 2014 and 2018 elections if they agree not to accept most private contributions and if they collect a specified number of \$5 contributions.

Major party candidates would be eligible to receive \$1 million in public campaign financing for a primary election by collecting \$5 contributions from at least 7,500 voters,

and would receive \$1.3 million for the general election. Participating candidates would be eligible to receive a limited amount of additional funding to match funds spent by non-participating candidates and to match independent expenditures made against those candidates or in support of those candidates' opponents.

The public financing provided for in this bill will be funded primarily by an increase in lobbyist registration fees from \$25 to \$700 per two year period. Additional funding would come from voluntary donations made by taxpayers on their state income tax forms.

This bill will be submitted to voters as a ballot measure for their approval at the June 8, 2010 statewide general election, and will not go into effect unless the voters approve that measure.

Legislative History

Assembly Elections.....	5-2
Assembly Appropriations	12-5
Assembly Floor	45-34
Assembly Elections (77.2).....	4-3
Assembly Concurrence	42-32
Senate Elections.....	3-2
Senate Appropriations	9-6
Senate Floor	21-18

AB 1292 (MENDOZA)
VETOED
VOTE BY MAIL VOTERS: BALLOT MATERIALS.

[Adds Section 3023.5 to the Elections Code]

Existing law requires elections officials to mail a sample ballot, together with a ballot pamphlet that contains candidates' statements, to each registered voter. The sample ballot must be mailed by the elections official not more than 40 nor less than 21 days before the election to each voter who has registered prior to the 29th day before the election. Because elections officials begin mailing vote by mail (VBM) ballots on the 29th day before the election, some voters may receive their VBM ballots before receiving the sample ballot that contains the candidates' statements.

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Appropriations	11-5
Assembly Floor	61-10
Assembly Concurrence	59-13
Senate Elections.....	3-2
Senate Appropriations	(28.8)
Senate Floor	24-12

This bill would have required each VBM ballot to be accompanied by a sample ballot or a voter's pamphlet that contains the candidates' statements unless the voter has already been provided with these statements.

On August 1, 2008, Governor Schwarzenegger vetoed this bill, saying that it "impos[es] additional costs on local governments in order to address something not shown to be a widespread problem" and noting that vote by mail voters currently have the option of waiting to receive the candidates' statements before casting a ballot.

AB 1808 (HUFF)
CHAPTER 137, STATUTES OF 2008
BALLOT STATEMENTS: CANDIDATES FOR FEDERAL OFFICE.

[Amends Section 9084 of, and adds Section 13307.5 to, the Elections Code, and amends Section 88001 of the Government Code]

Existing law allows every candidate for local nonpartisan elective office to submit a candidate's statement to appear in a voter's pamphlet that is mailed to each voter with his or her sample ballot. Local agencies have the authority to charge the candidates for the costs of printing and distributing such statements, but are not required to do so.

<u>Legislative History</u>	
Assembly Elections.....	6-0
Assembly Appropriations	16-0
Assembly Floor	75-0
Senate Elections.....	5-0
Senate Appropriations	15-0
Senate Floor	37-0

Additionally, candidates for elective state office who agree to abide by voluntary spending limits that were established by

Proposition 34 have the option of paying for a candidate's statement that is mailed to the voters. This statement appears in the voter information portion of the sample ballot for candidates for state Legislature, and appears in the state ballot pamphlet for candidates for statewide office and for the Board of Equalization.

This bill allows a candidate for United States Senate to purchase the space to have a candidate statement appear in the state ballot pamphlet, and allows a candidate for United States House of Representatives to purchase the space to have a candidate statement appear in the voter information portion of the sample ballot.

Additionally, this bill allows the Secretary of State (SOS) to include information in the state ballot pamphlet on the justices of the Supreme Court if the ballot contains a question on the confirmation or retention of those justices, and requires the state ballot pamphlet to contain a notice that refers voters to the SOS's web site for information about the candidates for the offices of President and Vice President.

AB 1928 (ANDERSON)
 VETOED
 ELECTIONS: VOTE BY MAIL BALLOTS.

[Amends Section 3010 of the Elections Code]

Existing law requires all vote by mail (VBM) ballots to be received by the elections official from whom they were obtained or by a precinct board in the county no later than the close of polls on election day in order to be counted.

This bill would have required elections officials to notify each VBM voter that a VBM ballot must actually be received by the elections official before the polls close on election day in order for the ballot to be counted and that an envelope postmarked by the day of the election is not sufficient. This notice could have been included on the VBM ballot identification envelope or in instructions to the voter.

<u>Legislative History</u>	
Assembly Elections.....	6-0
Assembly Appropriations	16-0
Assembly Floor	75-0
Assembly Concurrence	78-0
Senate Elections.....	5-0
Senate Appropriations	14-0
Senate Floor	39-0

On September 28, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

AB 1998 (SILVA)
 CHAPTER 192, STATUTES OF 2008
 POLITICAL REFORM ACT OF 1974: LOCAL AGENCY FORMATION COMMISSIONS.

[Adds Section 82035.5 to, and adds Article 2.5 (commencing with Section 84250) to Chapter 4 of Title 9 of, the Government Code]

The Cortese-Knox-Hertzberg Local Government Reorganization Act spells out the powers of Local Agency Formation Commissions (LAFCOs) and the procedures for changing local government boundaries, such as annexations to an existing city or the incorporation of a new city. While LAFCOs are charged with reviewing and approving or disapproving boundary changes, the application to the LAFCO for the boundary change is often initiated through a petition. Additionally, LAFCO law requires certain boundary changes to go before the voters.

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Local Gov	7-0
Assembly Appropriations	17-0
Assembly Floor	68-0
Senate Elections.....	5-0
Senate Appropriations	(28.8)
Senate Floor	37-0

While provisions of state law governing the circulation of petitions that will be submitted to a LAFCO are similar to provisions of state law governing the circulation of initiative petitions, the LAFCO petitions are not initiative petitions. As such, the Fair Political Practices Commission (FPPC) has determined that provisions of state law that require an individual or an organization to file campaign reports disclosing expenditures made to gather signatures on an initiative petition do not apply to expenditures made to gather signatures on a LAFCO petition.

Last year the Legislature approved and the Governor signed AB 745 (Silva), Chapter 109, Statutes of 2007, which sought to provide further disclosure of contributions and expenditures made in connection with proceedings before a LAFCO. Although the Legislature expanded the disclosure requirements for expenditures and contributions made in connection with LAFCO proposals and proceedings such that the disclosure requirements are similar to those for ballot measures, the Legislature has not previously considered legislation that would fully bring contributions and expenditures in connection with a LAFCO proposal or proceeding entirely within the regulatory framework of the Political Reform Act (PRA), which is administered by the FPPC. This bill makes contributions and expenditures to support or oppose a LAFCO proposal subject to the reporting and enforcement requirements of the PRA, thus making the FPPC responsible for enforcement of campaign disclosures in connection with these petitions.

AB 2092 (DE LA TORRE)
 CHAPTER 94, STATUTES OF 2008
 CRIMINAL PROCEDURE: DISCHARGE OF ACCUSATION OR INFORMATION: BAR TO
 PUBLIC OFFICE.

[Amends Section 1203.4 of the Penal Code]

Under existing law, individuals who are convicted of a number of specified crimes are disqualified from ever holding public office in the state. Crimes for which a person is disqualified from holding office include perjury, bribery, malfeasance in office, and other public-corruption crimes. Additionally, existing law allows those who have been convicted of a felony and who successfully

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Public Safety.....	7-0
Assembly Floor	68-0
Senate Public Safety.....	5-0
Senate Floor	35-0

complete probation to have their criminal record expunged. As a result of such an action, the defendant is released of most penalties and disabilities resulting from the offense of which he or she was convicted. However, this dismissal does not render the conviction a legal nullity. For instance, such a dismissal does not permit the person convicted to own or possess a firearm, does not affect any revocation or suspension of the privilege of the person to drive a motor vehicle, and does not relieve the person of the obligation to disclose the conviction in response to any direct question contained in a questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

This bill clarifies that when a person is convicted of a crime for which one of the penalties is a disqualification from holding public office, the dismissal of that conviction upon successful completion by that person of probation does not eliminate the disqualification from holding public office.

AB 2584 (MENDOZA)
 VETOED
 ELECTIONS.

[Amends Sections 103, 9602, 11303, and 13314 of the Elections Code]

Existing law requires each initiative, referendum, or recall petition to contain a declaration completed by the person who circulated that petition. Additionally, existing law allows a voter who has signed an initiative, referendum, or recall petition to withdraw his or her signature from the petition by filing a written request with the appropriate county elections official at any time prior to the day the petition is filed with the elections official.

<u>Legislative History</u>	
Assembly Elections.....	N/R
Assembly Appropriations	N/R
Assembly Floor	N/R
Assembly Elections (77.2).....	7-0
Assembly Concurrence	78-0
Senate Elections	5-0
Senate Appropriations	(28.8)
Senate Floor	37-0

Earlier this year, in a case regarding a recall in the City of Carson, a Los Angeles Superior Court ruled that a request by a voter to withdraw his or her signature from the recall petition was a petition itself, and thus had to contain a declaration by the petition circulator. This ruling was contrary to longstanding practice.

This bill would have clarified that any written request to withdraw a signature from an initiative, referendum, or recall petition is not considered to be a petition or paper and therefore does not require an affidavit of the circulator.

Earlier this year, the Fourth District Court of Appeals dismissed a case in which the ballot designation of a candidate for United States Congress was challenged in *Cook v. Superior Court* (2008) 161 Cal.App.4th 569. The appellate court opinion dismissed the case because the Secretary of State (SOS) was not named as a respondent or a real party in interest in the case, even though the SOS has a statutory role in the process of Congressional primaries and is an indispensable party to any case involving ballot-related issues. The court also noted that existing law requires a case to be filed in Sacramento County if the SOS is named as a respondent or as a real party in interest, and the case in question had not been filed in Sacramento County.

This bill would have required the SOS to be named as a respondent or a real party in interest in any proceeding concerning a measure or a candidate, except for a judge of the superior court, when the SOS is a recipient of the results of the election.

On September 28, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

AB 2607 (DAVIS)
CHAPTER 498, STATUTES OF 2008
POLITICAL REFORM ACT OF 1974: ELECTRONIC FILING.

[Adds and repeals Section 87500.1 of the Government Code]

Existing state law requires candidates for and current holders of specified elected or appointed state and local offices and designated employees of state and local agencies to file statements of economic interests (SEIs) disclosing their financial interests, including investments, real property interests, and income.

This bill establishes a three year pilot project, beginning in 2009 and ending in 2012, whereby Los Angeles, Merced, Orange and Stanislaus counties may permit local officials and designated employees and candidates for local office to file their SEIs electronically.

<u>Legislative History</u>	
Assembly Elections	7-0
Assembly Appropriations	15-0
Assembly Floor.....	76-0
Assembly Concurrence	78-0
Senate Elections	3-0
Senate Appropriations	(28.8)
Senate Floor.....	38-1

AB 2758 (KREKORIAN)
CHAPTER 198, STATUTES OF 2008
VOTING SYSTEMS.

[Amends Section 19103 of the Elections Code]

This bill requires the vendor of a voting system to cause an exact copy of the approved source code for each component of that voting system to be transferred directly from the United States Election Assistance Commission, or the accredited voting system testing laboratory which evaluated the voting system, and deposited into an escrow facility approved by the Secretary of State (SOS). Additionally, this bill allows the SOS to access all materials placed in escrow in order to examine voting systems pursuant to provisions of existing law.

<u>Legislative History</u>	
Assembly Elections	7-0
Assembly Appropriations	17-0
Assembly Floor.....	76-0
Senate Elections	5-0
Senate Appropriations	(28.8)
Senate Floor.....	37-0

AB 2786 (SALAS)
 CHAPTER 252, STATUTES OF 2008
 ELECTIONS: BALLOTS.

[Amends Sections 3102, 3103, and 3103.5 of the Elections Code]

Existing law permits a special absentee voter who is temporarily living outside the United States to return his or her ballot by facsimile transmission to the elections official. That provision was scheduled to sunset on January 1, 2009. Existing law also requires the Secretary of State (SOS), not later than December 31, 2008, to make a recommendation to the Legislature on whether or not fax voting should be continued after that time, and if so, whether the procedures for voters to return faxed ballots should be modified.

<u>Legislative History</u>	
Assembly Elections.....	6-0
Assembly Appropriations	17-0
Assembly Floor	76-0
Senate Elections.....	5-0
Senate Appropriations	(28.8)
Senate Floor	38-0

This bill extends the sunset date on the provision of law that allows overseas voters to transmit their ballots by fax to January 1, 2011, thereby extending the operation of this law while the Legislature reviews the SOS's recommendations.

AB 2953 (FEUER)
 VETOED
 ELECTIONS: VOTING.

[Amends Section 13102 of the Elections Code]

Under existing law, voters who registered to vote without choosing a partisan affiliation—commonly known as "decline-to-state" (DTS) voters—may participate in a political party's primary election only if that political party allows participation by DTS voters. At the February 2008 Presidential primary election, the American Independent and Democratic Parties allowed DTS voters to participate in their primary elections, while at the June 2008 primary election, the American Independent, Democratic, and Republican Parties allowed DTS voters to participate in their primary elections.

<u>Legislative History</u>	
Assembly Elections.....	5-1
Assembly Appropriations	12-5
Assembly Floor	45-26
Assembly Concurrence	51-27
Senate Elections.....	3-2
Senate Appropriations	(28.8)
Senate Floor	24-14

For vote by mail (VBM) voters who are DTS voters, the VBM ballot application contains a space in which the DTS voter can indicate the political party ballot that he or she wants to

receive for that primary election. Additionally, county elections officials are required to mail a notice and application to every permanent VBM voter who is a DTS voter prior to the primary election which the DTS voter may return to indicate the political party ballot that he or she wants to receive for that primary election. For a DTS voter who votes at the polling place, however, existing law provides that the voter is to be provided with a nonpartisan ballot unless he or she requests a ballot of a political party that has authorized DTS voters to participate in the party's primary election. While some counties instruct their polling place workers to offer DTS voters the option of voting a partisan ballot, nothing in state law requires that polling place workers proactively offer these partisan ballots to DTS voters, and some counties have told poll workers that they are not permitted to offer a partisan ballot to DTS voters.

This bill would have required a member of a precinct board, prior to furnishing a ballot to a DTS voter at a partisan primary election, to inform the voter that he or she may request a ballot for a political party that has adopted a party rule allowing DTS voters to vote the ballot of that political party at that primary election.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

**AB 2959 (BROWNLEY)
VETOED
ELECTIONS: VOTER-REQUESTED RECOUNTS.**

[Amends Section 15624 of, and adds Section 15624.5 to, the Elections Code]

Existing law allows any voter to request a recount of the votes cast for candidates for any office or for or against any measure, but requires the voter to pay for the costs of such a recount. When the voter requests a recount, he or she must designate the candidate or position on a ballot measure on which behalf he or she is requesting the recount. If the recount changes the outcome of the election in favor of that candidate or position, the amount paid by the voter for the recount is refunded.

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Appropriations	16-0
Assembly Floor	75-0
Assembly Concurrence	74-0
Senate Elections.....	5-0
Senate Appropriations	(28.8)
Senate Floor	37-0

This bill would have required the elections official to provide a daily, itemized estimate of the costs of the recount to the person requesting the recount.

Governor Schwarzenegger vetoed this bill on August 1, 2008, arguing that it "imposes an unnecessary mandate on elections officials" because "[r]ecounts are requested in a scant few elections and the proponents have failed to demonstrate any abuse on the part of elections officials estimating recount costs."

AB 2964 (LEVINE)
VETOED
VOTE BY MAIL BALLOTS.

[Amends Section 3019 of the Elections Code]

Existing law requires county elections officials to establish procedures whereby a voter who votes by mail can track and confirm the receipt of his or her vote by mail (VBM) ballot on the county's elections division Internet Web site. For counties that do not have an elections division Internet Web site, the elections official must establish a toll-free telephone number that may be used to confirm the date a voted VBM ballot was received.

<u>Legislative History</u>	
Assembly Elections.....	6-1
Assembly Appropriations	12-5
Assembly Floor	52-22
Senate Elections.....	3-1
Senate Appropriations	9-5
Senate Floor	24-13

This bill additionally would have required elections officials to establish a free access system to allow a VBM voter to find out whether or not his or her VBM ballot was counted and, if not, the reason it was not counted.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

AB 3014 (MULLIN)
VETOED
VOTING: POLLING PLACE PROCEDURES.

[Amends Section 14224 of, and repeals Section 19363 of, the Elections Code]

Existing law contains two conflicting provisions that set a limit on the amount of time that a voter can remain in a voting booth or compartment. Elections Code Section 14224 sets a 10 minute limit on the amount of time that a voter can remain in a voting booth or compartment to cast his or her ballot, while Elections Code Section 19363 of sets a five minute limit. Elections Code Section 19363 is located in a part of the Code dealing with lever voting machines—machines that are no longer used in the state.

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Floor	77-0
Assembly Concurrence	50-27
Senate Elections.....	5-0
Senate Floor	39-0

To resolve this conflict, this bill would have repealed the provision of law pertaining to lever voting machines, and retained the 10 minute time limit that exists in Section 14224 of

the Elections Code. Additionally, this bill would have specified that a voter will be allowed more than 10 minutes to mark his or her ballot if the voter informs precinct board members that he or she needs more time.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

**AB 3026 (SALDAÑA)
CHAPTER 200, STATUTES OF 2008
ELECTIONS: VOTING SYSTEMS.**

[Amends Sections 15261 and 19250 of, and adds Section 19217 to, the Elections Code]

Existing law prohibits direct recording electronic (DRE) voting systems from being connected to the Internet, receiving or transmitting election data through an exterior communication network, or receiving or transmitting wireless communications or data transfers.

This bill makes those restrictions applicable to every voting system, whether it is a DRE voting system or not. Additionally, this bill prohibits election results from being transmitted from a ballot counting center by modem or by other non-voice telephone transmission.

<u>Legislative History</u>	
Assembly Elections	7-0
Assembly Appropriations	17-0
Assembly Floor	76-0
Senate Elections	5-0
Senate Appropriations	(28.8)
Senate Floor	37-0

**AB 3068 (ELECTIONS & REDISTRICTING COMMITTEE)
VETOED
VOTING.**

[Amends Section 1363.03 of the Civil Code, amends Sections 354.5, 13107.3, 13307, and 14225 of the Elections Code, and amends Section 22970.20 of the Water Code]

This committee omnibus bill would have made various minor and technical changes to state law governing elections.

AB 1243 (Karnette), Chapter 508, Statutes of 2007 changed the name of "absentee" voting to vote by mail (VBM) voting, among other provisions, in an attempt to clarify that a voter does not need to be absent from his or her precinct on election day in order to choose to

<u>Legislative History</u>	
Assembly Elections	6-0
Assembly Appropriations	17-0
Assembly Floor	76-0
Assembly Concurrence	77-0
Senate Elections	5-0
Senate Appropriations	(28.8)
Senate Floor	39-0

vote by mail. This bill would have changed various remaining instances of the use of the term "absentee ballot" and "absentee voter" to VBM ballot and VBM voter, respectively, to conform with the Legislature's and Governor's actions on AB 1243.

AB 18 (Blakeslee), Chapter 485, Statutes of 2007 allows a disabled person who is unable to write to use a signature stamp in place of a signature on an elections-related document. One of the provisions of AB 18 specified that if the user of signature stamp votes by mail, the user is required to affix the stamp on the VBM ballot. This bill would have clarified that a voter who uses a signature stamp and who votes by mail is required to affix the stamp on the *identification envelope*, not on the VBM ballot itself.

AB 1090 (Spitzer), Chapter 505, Statutes of 2007 requires a candidate who wants to have a ballot designation to file a ballot designation worksheet. However, the provisions of AB 1090 that require a candidate to file a ballot designation worksheet specify that the worksheet has to be filed in addition to nomination documents that are filed for a primary election. As a result, the provisions of AB 1090 could be interpreted to apply only to primary elections for partisan office, and not to candidates for non-partisan office who do not run at a primary election. This bill would have clarified that the requirement that candidates file a ballot designation worksheet applies to all candidates who wish to have a ballot designation, not just candidates who are running at a primary election for partisan office.

Existing law allows any candidate for local office to submit a candidate statement, which is printed in the voter information portion of the sample ballot. Local agencies have the option of billing the candidate for the pro-rated cost of including the statement. If the local agency charges candidates for their statements, the local agency is responsible for providing candidates with an estimate of the total costs, which the candidate must pay to the local agency or to the elections official. This bill would have specified that the local agency that is responsible for providing a cost estimate for candidate statements is also responsible for collecting any balance due from candidates if the estimated cost did not cover the actual cost of the statements. Additionally, this bill would have clarified that whichever entity collected the estimated cost (the local agency or the elections official) is responsible for refunding any overpayment if the statements cost less than was estimated.

Finally, this bill would have repealed an obsolete provision in the code section dealing with payments for candidate statements. That provision became inoperative on January 1, 2007.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

AB 3070 (ELECTIONS & REDISTRICTING COMMITTEE)
 CHAPTER 108, STATUTES OF 2008
 SPECIAL PRIMARY ELECTION: VACANCIES.

[Amends Section 10704 of the Elections Code]

Under existing state law, the date of a special election to fill a vacancy in the Legislature or Congress is determined by first setting the date of the special runoff election, then counting back eight weeks to set the date of the special primary election. If the Tuesday that is eight weeks prior to a special runoff election falls on a holiday, or the day before or the day after a holiday, the special primary election is held nine weeks before the special runoff election.

<u>Legislative History</u>	
Assembly Elections.....	7-0
Assembly Floor	76-0
Senate Elections.....	5-0
Senate Floor	35-0

However, because no election can be held on the day of, the day before, or the day after a state holiday, a special election cannot be scheduled for December 31, January 1, or January 2. As such, if any of those three days falls on a Tuesday, there is no way to schedule a special runoff election so that the special primary election can be consolidated with an election that is already scheduled to occur in November of the preceding year.

This bill gives the Governor additional flexibility in scheduling special elections held to fill vacancies in the Legislature or Congress in an attempt to allow a larger number of special elections to be consolidated with regularly scheduled elections.

AJR 43 (HAYASHI)
 RESOLUTION CHAPTER 91, STATUTES OF 2008
 VOTING RIGHTS: MENTAL DISABILITY.

This resolution urges Congress and the President of the United States to amend the Help America Vote Act of 2002 to ensure that eligible citizens of the United States who wish to vote may only be denied the right to vote due to reason of mental disability if they cannot indicate, with or without help, a specific desire to participate in the voting process.

<u>Legislative History</u>	
Assembly Elections.....	6-1
Assembly Floor	46-28
Senate Elections.....	3-2
Senate Floor	22-13

**SB 37 (MIGDEN)
VETOED
ELECTORAL COLLEGE: INTERSTATE COMPACT.**

[Adds Chapter 1.5 (commencing with Section 6920) to Part 2 of Division 6 of the Elections Code]

Under existing law, the Presidential ticket that receives the greatest number of votes in the state receives all of California's electoral votes.

This bill would have ratified an interstate compact whereby California would award its electoral votes to the Presidential ticket that received the most popular votes nationwide, but only if the states who were parties to the compact cumulatively possessed a majority of the electoral votes.

<u>Legislative History</u>	
Senate Elections	3-2
Senate Appropriations	(28.8)
Senate Floor	22-14
Senate Concurrence	21-16
Assembly Elections	5-1
Assembly Appropriations	11-5
Assembly Floor	45-30

Governor Schwarzenegger vetoed this bill on September 30, 2008, arguing that SB 37 "would represent a major shift in the way not only Californians but all Americans choose their president" and as such, that "[s]uch a significant change should be voted on by the people."

**SB 381 (R. CALDERON)
CHAPTER 613, STATUTES OF 2008
VOTER REGISTRATION.**

[Adds Chapter 2.5 (commencing with Section 2196) to Division 2 of the Elections Code]

The Secretary of State's (SOS) web site currently has a page that allows voters to begin the step of registering to vote online, but because county elections officials must have a signature for each registered voter, existing law and practice does not presently permit a person to complete the voter registration process online.

A voter who attempts to register to vote on the SOS's web site is asked to fill in all the information necessary in order to register to vote. Once that person submits that information on the SOS's web site, a voter registration card is generated with the person's

<u>Legislative History</u>	
Senate Elections	N/R
Senate Appropriations	N/R
Senate Floor	N/R
Senate Elections (29.10)	3-2
Senate Concurrence	22-15
Assembly Elections	N/R
Assembly Appropriations	N/R
Assembly Floor	N/R
Assembly Elections	7-0
Assembly Appropriations	11-4
Assembly Floor	54-18

information pre-filled, and that voter registration card is mailed to the voter who must sign the card and mail it back in for the registration to be processed.

This bill allows a person to register to vote on the SOS's Internet web site if he or she has a valid California driver's license or state identification card. To fulfill the requirement that county elections officials have a signature for every registered voter, this bill requires the SOS to obtain an electronic copy of the applicant's signature from his or her driver's license or state identification card directly from the Department of Motor Vehicles for each voter registration affidavit that is executed electronically through the SOS's web site.

This bill will not become operative until the SOS certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002.

**SB 967 (SIMITIAN)
VETOED
ELECTION PRECINCTS.**

[Amends Section 12223 of the Elections Code]

Existing law provides that when elections officials establish precincts for an election, there may be no more than 1,000 voters in each precinct. In recent years, due to an increase in the number of voters who are permanent vote by mail voters (PVBMVs), fewer voters have been voting at the polling place.

<u>Legislative History</u>	
Senate Elections	3-2
Senate Floor.....	26-11
Senate Concurrence.....	23-13
Assembly Elections	6-1
Assembly Floor.....	57-17

This bill would have permitted an elections official to subtract the number of PVBMVs from the total number of voters when creating precincts provided that the number of voters in the precinct does not exceed the percentage of non-PVBMVs in the jurisdiction on the 88th day prior to the election multiplied by 1,000. In effect, then, this bill would have allowed county elections officials to equalize the number of non-PVBMVs at each precinct in the county, but would not have permitted elections officials to reduce the total number of precincts in any county.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

**SB 1208 (DUCHENY)
VETOED
ELECTIONS: TITLE AND SUMMARY: FISCAL ESTIMATE.**

[Amends Sections 9004 and 9005 of the Elections Code]

Existing state law provides that the Joint Legislative Budget Committee (JLBC) and the Department of Finance (DOF) are jointly responsible for preparing a fiscal estimate for each state initiative measure that is submitted for title and summary if the Attorney General (AG) determines that the measure is likely to have a fiscal impact on state or local governments. However, existing state law also specifies that the JLBC and the DOF may use a statement of fiscal impact prepared by the Legislative Analyst's Office (LAO) in the preparation of the fiscal estimate.

<u>Legislative History</u>	
Senate Elections.....	3-1
Senate Appropriations	(28.8)
Senate Floor	23-14
Assembly Elections.....	7-0
Assembly Appropriations	15-0
Assembly Floor	65-11

In practice, the LAO has taken a greater role in the preparation of the fiscal estimate than one might assume based on existing state statutes. When the DOF and JLBC receive a notice from the AG requesting a fiscal analysis of an initiative measure, the LAO usually takes the lead and begins the process of investigative research, including how programs would be affected and how possible passage and implementation would impact the state. Once the LAO has completed this investigative analysis, the DOF is contacted for review of and concurrence in the LAO's analysis. If the DOF concurs and signs off on the LAO's work, the estimate is returned to the AG for inclusion in the title and summary.

This bill would have required the LAO, instead of the JLBC and the DOF, to prepare a fiscal estimate for a proposed state initiative measure upon request by the AG.

Governor Schwarzenegger vetoed this bill on September 28, 2008, arguing that "[t]he current shared responsibility of the Department of Finance and the JLBC" in preparing fiscal analyses of proposed initiative measures "ensure[s] agreements by the Executive and Legislative branches of government on the potential fiscal impact of proposed initiatives."

SB 1235 (OROPEZA)
VETOED
POLLING PLACE: NOTICE OF CHANGE.

[Amends Section 12281 of the Elections Code]

Existing law requires elections officials to mail a notice to all voters in a precinct when their designated polling place location has changed as long as there is sufficient time in which to mail a notice prior to the election. If there is not enough time to mail such a notice, existing law requires the elections officials to post a notice on or near the original polling place that informs voters that the polling place location has changed, and that provides the address to the new polling place location.

<u>Legislative History</u>	
Senate Elections.....	5-0
Senate Appropriations	(28.8)
Senate Floor	38-0
Assembly Elections.....	7-0
Assembly Appropriations	15-0
Assembly Floor	75-0

This bill would have required a notice informing voters of changes of polling place designation to be posted on or near the original polling place designation even when sufficient time existed in which to mail voters a notice of the polling place location change

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

SB 1686 (DENHAM)
VETOED
IMPROPER SIGNATURE-GATHERING TACTICS.

[Amends Section 18660 of the Elections Code]

Existing law provides that any person who makes a false affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto is punishable by a fine not exceeding \$5,000, or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

<u>Legislative History</u>	
Senate Public Safety.....	4-0
Senate Elections.....	5-0
Senate Appropriations	(28.8)
Senate Floor	34-0
Assembly Elections.....	7-0
Assembly Appropriations	15-0
Assembly Floor	75-0

This bill would have made it a misdemeanor, punishable by a fine not exceeding \$5,000, by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment, for a person, company, organization,

company official, or other organizational officer in charge of a person who circulates an initiative, referendum, or recall petition to knowingly direct or permit the person to make a false affidavit concerning the initiative, referendum, or recall petition.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

SB 1694 (FLOREZ)
VETOED
ELECTIONS: PRIMARY ELECTION BALLOTS.

[Amends Sections 14102 and 14272 of the Elections Code]

Under existing law, voters who registered to vote without choosing a partisan affiliation—commonly known as "decline-to-state" (DTS) voters—may participate in a political party's primary election only if that political party allows participation by DTS voters. At the February 2008 Presidential primary election, the American Independent and Democratic Parties allowed DTS voters to participate in their primary elections, while at the June 2008 primary election, the American Independent, Democratic, and Republican Parties allowed DTS voters to participate in their primary elections.

<u>Legislative History</u>	
Senate Elections	3-2
Senate Appropriations	8-3
Senate Floor	24-11
Senate Concurrence	26-12
Assembly Elections	5-2
Assembly Appropriations	11-4
Assembly Floor	47-31

For vote by mail (VBM) voters who are DTS voters, the VBM ballot application contains a space in which the DTS voter can indicate the political party ballot that he or she wants to receive for that primary election. Additionally, county elections officials are required to mail a notice and application to every permanent VBM voter who is a DTS voter prior to the primary election which the DTS voter may return to indicate the political party ballot that he or she wants to receive for that primary election. For a DTS voter who votes at the polling place, however, existing law provides that the voter is to be provided with a nonpartisan ballot unless he or she requests a ballot of a political party that has authorized DTS voters to participate in the party's primary election. While some counties instruct their polling place workers to offer DTS voters the option of voting a partisan ballot, nothing in state law requires that polling place workers proactively offer these partisan ballots to DTS voters, and some counties have told poll workers that they are not permitted to offer a partisan ballot to DTS voters.

This bill would have required a member of a precinct board, prior to furnishing a ballot to a DTS voter at a partisan primary election, to inform the voter that he or she may request a ballot for a political party that has adopted a party rule allowing DTS voters to vote the ballot of that political party at that primary election.

On September 27, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

**SB 1749 (OROPEZA)
VETOED
PRECINCT BOARD MEMBERS.**

[Adds Section 12309.9 to the Elections Code]

SB 610 (Escutia), Chapter 530, Statutes of 2003, directed the Secretary of State (SOS) to appoint a task force to study and recommend uniform guidelines for poll worker training. The Task Force consisted of the chief elections officers of the two largest counties, the two smallest counties, and two other county elections officers selected by the SOS. The Task Force included eight other members with elections expertise, including members of community-based organizations and citizens familiar with different ethnic, cultural, and disabled populations.

<u>Legislative History</u>	
Senate Elections	3-2
Senate Appropriations	8-4
Senate Floor	23-14
Senate Concurrence	25-12
Assembly Elections.....	5-2
Assembly Appropriations	11-4
Assembly Floor	47-31

The Task Force met four times and developed numerous recommendations for standards for poll worker training. In addition to its recommendations, the Task Force also provided a series of best practices on recruiting poll workers and best practices on useful methods and materials for poll worker training.

In 2006, Secretary of State Bruce McPherson adopted poll worker training guidelines that reflected the work of the Task Force. None of those guidelines specifically addressed online training of poll workers.

This bill would have allowed the SOS to adopt uniform standards for the online training of precinct board members. Additionally, this bill would have encouraged the SOS to work with local elections officials to explore how often precinct board members should undergo training, and encouraged the SOS to work with the Controller to provide information to state employees regarding a provision of existing law that allows a state employee to serve as a precinct board member without a loss of pay.

On September 28, 2008, Governor Schwarzenegger vetoed this bill, maintaining that the delay in the passage of the 2008-2009 state budget left him without sufficient time to review the measure.

SB 1772 (COMMITTEE ON RULES)
 CHAPTER 418, STATUTES OF 2008
 POLITICAL REFORM ACT OF 1974: BEHESTED PAYMENTS.

[Amends Section 82015 of the Government Code]

In 1996, the Fair Political Practices Commission (FPPC) amended its regulatory definition of the term "contribution" to include any payment made "at the behest" of a candidate, regardless of whether that payment was for a political purpose. As a result, payments made by a third party at the request or direction of an elected officer were required to be reported as campaign contributions, even if those payments were made for governmental or charitable purposes.

<u>Legislative History</u>	
Senate Elections	5-0
Senate Appropriations	(28.8)
Senate Floor	34-0
Assembly Elections	7-0
Assembly Appropriations	15-0
Assembly Floor	75-0

The change in regulations by the FPPC, along with a number of advice letters issued by the FPPC interpreting the new definition of "contribution," limited the ability of elected officers to co-sponsor governmental and charitable events. In one advice letter, the FPPC concluded that a member of the Legislature would be deemed to have accepted a campaign contribution if, at his behest, a third party paid for the airfare and lodging for witnesses to testify at a legislative hearing.

In response to the FPPC's modified definition of "contribution," the Legislature enacted SB 124 (Karnette), Chapter 450, Statutes of 1997, which provided that a payment made at the behest of a candidate for purposes unrelated to the candidate's candidacy for elective office is not a contribution. SB 124 specifically provided that a payment made at the behest of a candidate principally for a legislative, governmental, or charitable purpose is not considered a contribution or a gift. However, SB 124 also required that such payments made at the behest of a candidate who is also an elected officer, when aggregating \$5,000 or more in a calendar year from a single source, be reported to the elected officer's agency. The elected officer must report such a payment within 30 days.

Examples of payments made at the behest of an elected officer that have to be reported under this provision of law include charitable donations made in response to a solicitation sent out by an elected officer or donations of supplies and refreshments made by a third party for a health fair that was sponsored by an elected officer.

This bill makes the same "behested payment" reporting requirements applicable to members of the California Public Utilities Commission.

**CHAPTERED BILLS & RESOLUTIONS
2008 LEGISLATIVE YEAR**

<u>BILL NUMBER</u>	<u>AUTHOR</u>	<u>CHAPTER NUMBER</u>	<u>PAGE</u>
AB 583	HANCOCK	735	2
AB 1808	HUFF	137	3
AB 1998	SILVA	192	5
AB 2092	DE LA TORRE	94	6
AB 2607	DAVIS	498	8
AB 2758	KREKORIAN	198	8
AB 2786	SALAS	252	9
AB 3026	SALDAÑA	200	12
AB 3070	ELECTIONS & REDISTRICTING	108	14
AJR 43	HAYASHI	RES. CHAP. 91	14
SB 381	R. CALDERON	613	15
SB 1772	RULES	418	21

VETOED BILLS
2008 LEGISLATIVE YEAR

<u>BILL NUMBER</u>	<u>AUTHOR</u>	<u>PAGE</u>
AB 1292	MENDOZA	3
AB 1928	ANDERSON	4
AB 2584	MENDOZA	7
AB 2953	FEUER	9
AB 2959	BROWNLEY	10
AB 2964	LEVINE	11
AB 3014	MULLIN	11
AB 3068	ELECTIONS & REDISTRICTING	12
SB 37	MIGDEN	15
SB 967	SIMITIAN	16
SB 1208	DUCHENY	17
SB 1235	OROPEZA	18
SB 1686	DENHAM	18
SB 1694	FLOREZ	19
SB 1749	OROPEZA	20