

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

<b>Bill No:</b>	AB 453	<b>Hearing Date:</b>	6/18/24
<b>Author:</b>	Cervantes		
<b>Version:</b>	2/6/23		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Evan Goldberg		

**Subject:** District-based elections

**DIGEST**

This bill requires a political subdivision that is changing from at-large to district-based elections to set a fixed time to discuss the matter at all required public hearings.

**ANALYSIS**

Existing law:

- 1) Requires a city, county or other political subdivision that is changing from at-large to district-based elections to:
  - a) Hold at least two public hearings over a period of no more than 30 days to get public input before drawing draft maps of the proposed boundaries of districts;
  - b) After draft maps are drawn, publish and release at least one draft map and the potential sequence of elections in situations where elections to the governing body will be staggered; and
  - c) After publishing a draft map or maps, hold at least two additional hearings over a period of no more than 45 days to get public input regarding the maps.
- 2) Requires city councils and boards of supervisors to, when holding a public hearing to get input on the drawing of new district lines, begin that hearing at a set time, regardless of where the item is on the agenda of the meeting of the council or board.
- 3) Under the California Voting Rights Act (CVRA), an at-large method of election cannot be used in a political subdivision if it impairs the ability of a protected class of voters to elect candidates of its choice or its ability to influence the outcome of an election.
- 4) Requires a court, if it determines a violation of CVRA has occurred, to implement appropriate remedies, including requiring a political subdivision to move to district-based elections.

This bill:

- 1) Takes the rules under (2) that apply to cities and counties and applies them to all political subdivisions. Therefore, special districts and other political subdivisions will be required to, when holding a public hearing to get input on the drawing of new district lines, begin that hearing at a set time, regardless of where the item is on the agenda of the meeting.
- 2) Allows the governing body to conclude any item being discussed or acted upon, including any associated public comment, even if the set time for the hearing on the new district lines has arrived, before moving to that item.
- 3) Requires the governing body to provide public notice of the hearing.

### **BACKGROUND**

California Voting Rights Act of 2001. SB 976 (Polanco) of 2002, enacted the CVRA to address racial block voting in at-large elections for local offices in California. In areas where racial block voting occurs, an at-large method of election can dilute the voting rights of minority communities if the majority typically votes to support candidates who differ from the candidates who are preferred by minority communities.

When this occurs, breaking a jurisdiction up into districts can result in districts in which a minority community can elect a candidate of its choice or otherwise have the ability to influence the outcome of an election. Accordingly, the CVRA prohibits using an at-large election in a political subdivision in a manner that impairs the ability of a protected class of voters to elect candidates of its choice or to influence the outcome of an election.

The first case brought under the CVRA was filed in 2004, and the targeted jurisdiction – the City of Modesto – challenged the constitutionality of the law. Ultimately, the City of Modesto appealed the case all the way to the United States Supreme Court, which rejected the city's appeal in October 2007. Since that time, more than 250 local jurisdictions have converted or are in the process of converting from an at-large method of election to district-based elections.

Local Redistricting Hearing Requirements. AB 849 (Bonta) of 2019, also known as the FAIR MAPS Act, revised and standardized the criteria and processes to be used by counties and cities when adjusting the boundaries for district-based elections. The FAIR MAPS Act also required counties and cities to comply with substantial public hearing and outreach requirements.

### **COMMENTS**

- 1) According to the Author: “Ensuring public participation when local governments are transitioning from at-large to by-district elections pursuant to the California Voting Rights Act (CVRA) is a vital part of ensuring that the transition process is deliberate, fair, and transparent. Part of maximizing public participation in public hearings is providing certainty to the community about when these hearings will be held, or when relevant agenda items will be heard. Unfortunately, some local governments have historically tried to discourage public participation in public hearings on

controversial matters by intentionally delaying discussion of these items as long as possible to ensure members of the public would have to go home in order to attend to everyday life. In the redistricting context, existing state law solves this problem by requiring local governments to hold redistricting hearings at a time certain.

“Assembly Bill 453 would import this narrowly tailored solution from the redistricting context to the CVRA by requiring that hearings regarding the transition to by-district elections must begin at a time certain. If such a hearing is consolidated with a regular or special meeting of the local government’s governing body, consideration of any agenda items pertaining to the transition to by-district elections must begin at a time certain. This level of certainty about when these matters of profound public importance will be heard will improve transparency and allow community groups to properly and effectively mobilize members of the public to participate in the hearing.”

- 2) The Clock On The Wall Says Three O’Clock. This bill mirrors a provision in existing law that applies to cities and counties by requiring all political subdivisions (e.g., special districts, utility districts, flood control districts, etc.) to – when holding public hearings regarding the drawing of district-based election lines – set the hearing at a time-certain.

The goal is to ensure the members of the public who have an interest in the matter will know when the item will come up on the agenda, even if there are other items to be heard and discussed at the meeting.

If the item related to district-based election lines is scheduled at, for example, 3:00pm, the bill does allow the board to finish discussing an item it may be in the middle of at that time, including talking public comment on that item, before moving to the redistricting item.

- 3) Does This Bus Stop At 82<sup>nd</sup> Street? Possibly, though not right away. The Senate Committee on Rules has double-referred AB 453 to the Senate Committee on Elections & Constitutional Amendments and the Senate Committee on Local Government, which is where it will go next should it be approved today.

**PRIOR ACTION**

Assembly Floor:	79 - 0
Assembly Appropriations Committee:	14 - 0
Assembly Elections Committee:	8 - 0

**POSITIONS**

**Sponsor:** ACLU California Action  
Asian Americans Advancing Justice – Asian Law Caucus

**Support:** Common Cause California  
League of Women Voters of California

**Oppose:** None received

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

**Bill No:** AB 1807 **Hearing Date:** 6/18/24  
**Author:** Cervantes  
**Version:** 3/11/24  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Evan Goldberg

**Subject:** County of Riverside Citizens Redistricting Commission

**DIGEST**

Makes various modifications to state law governing the conduct and activities of the Riverside County Citizens Redistricting Commission.

**ANALYSIS**

Existing law:

- 1) Requires each county board of supervisors, following each federal decennial census, to create supervisorial districts that are substantially equal in population.
- 2) Requires boundaries for all districts (e.g., board supervisors, city council, etc.) to comply with the federal Voting Rights Act and be developed using the following criteria in the following order of priority:
  - a) Districts shall be geographically contiguous;
  - b) The geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes divisions;
  - c) The geographic integrity of a city or census designated place shall be respected in a manner that minimizes its division, though this provision does not apply when adopting district boundaries for a city;
  - d) Districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the local jurisdiction, and should be easily identifiable and understandable by residents; and
  - e) Districts shall be drawn to encourage geographic compactness.
- 3) Prohibits districts from being drawn to favor or discriminate against an incumbent, political candidate, or political party.
- 4) Establishes the Riverside County Citizens Redistricting Commission (Commission), and charges it with adjusting the boundaries of Riverside County's supervisorial districts after each decennial federal census.
- 5) Requires the Commission to arrange for the live translation of one of its hearings into an applicable language if a request for translation is made at least 24 hours

before the hearing. An “applicable language” is any language for which the number of Riverside County residents who are members of a language minority is equal to or greater than 3% of the total voting age residents of the county.

- 6) Makes a member of the Commission ineligible for five years from the date of appointment to hold elective public office at the federal, state, county, or city level in California.
- 7) Makes a member of the Commission ineligible for three years from the date of appointment to hold appointive federal, state, or local public office, to serve as paid staffer or consultant to the Board of Equalization (BOE), Congress, the Legislature, or any individual legislator, or to register as a federal, state, or local lobbyist in California.

This bill:

- 1) Prohibits a member of the Commission from communicating with any person or group about redistricting matters outside of a public meeting. This prohibition does not apply to communications with the staff of the Riverside County Board of Supervisors regarding administrative matters, or to commissioners who want to communicate with other commissioners, commission staff, legal counsel, or consultants retained by the Commission.
- 2) Repeals the specified criteria the Commission is required to use when establishing supervisorial districts, and instead requires it to use similar criteria found in the Fair And Inclusive Redistricting for Municipalities And Political Subdivisions (FAIR MAPS) Act of 2023 that generally applies to all local redistricting in the state.
- 3) Requires the Commission to ensure all outreach materials, public notifications, agendas, and content on its website, including instructions for testifying and submitting written public testimony, are translated into all languages which the Commission is required to translate its redistricting hearings into.
- 4) Broadens a provision of existing law that makes a commissioner ineligible for five years to hold elective public office at the federal, state, county, or city level by replacing “county or city” with “local.”
- 5) Makes a commissioner ineligible for three years after being appointed to the Commission from:
  - a) Being employed as a staff member of, or a consultant to, an elected official or candidate for elective office of Riverside County; and
  - b) Receiving a non-competitively bid contract with Riverside County.
- 6) Prohibits a commissioner from endorsing, working for, or making a campaign contribution to a candidate for elective office in Riverside County while serving on the Commission.

## **BACKGROUND**

Redistricting 101. Redistricting is the process by which the boundaries of districts of a governmental body are adjusted, generally at the beginning of each decade following the decennial federal census.

How redistricting is done varies by jurisdiction and while there are numerous requirements, at the core of each process is a requirement for the populations of each district of a governmental body to be made roughly equal.

California Citizens Redistricting Commission. Proposition 11, which was approved by California voters in 2008, created the California Citizens Redistricting Commission (CCRC), and gave made it responsible for establishing the lines for the Assembly, Senate, and BOE districts. Two years later, California voters approved Proposition 20, which gave the CCRC the responsibility for establishing lines for California's congressional districts, and made other changes to the procedures and criteria used by the CCRC.

The CCRC consists of 14 registered voters, including 5 Democrats, 5 Republicans, and 4 others, all of whom are chosen according to procedures specified in Proposition 11.

Local Redistricting Commissions. Prior to 2017, state law generally permitted cities and counties to create an advisory redistricting commission, but did not expressly permit local jurisdictions to create commissions with the authority to establish district boundaries.

SB 1108 (Allen) of 2016 changed that by allowing cities and counties to establish their own redistricting commissions and SB 1018 (Allen) of 2018 expanded that authority to all local governmental entities.

Separately, the Legislature has enacted a number of bills to require specified counties to establish redistricting commissions, including AB 1307 (Cervantes) of 2022, which created the Riverside County Commission this bill seeks to amend. Other bills created commissions in:

- Fresno County
- Kern County
- Los Angeles County
- Orange County
- Sacramento County
- San Diego County

While the provisions of these bills creating county-level redistricting commissions are broadly similar, the laws do vary slightly.

Past bills that created county-level redistricting commissions for Fresno, Kern, Los Angeles, and the other counties noted above generally specified the criteria the

commissions were required to use when drawing districts, rather than simply referencing the criteria that applied under state law.

### COMMENTS

- 1) According to the Author: “Since the enactment of Assembly Bill 1307 (Cervantes) in 2022, several citizens independent redistricting commission bills that have been approved by the Legislature have provided new and constructive innovations to the county independent redistricting commission model. Assembly Bill 1807 would transpose many of those provisions to the County of Riverside Citizens Redistricting Commission that is required by AB 1307 and is set to be constituted for the first time in 2030. These include imposing more robust language outreach requirements and additional prohibitions on commissioners, as well as incorporating updated criteria for local redistricting efforts enacted by the FAIR Maps Act of 2023, Assembly Bill 764 (Bryan & Cervantes).”
- 2) Criteria Ch-Ch-Ch-Ch-Changes. AB 764 (Bryan) of 2023 made various changes to state laws governing local redistricting, one of which was to standardize the criteria used when drawing districts for local jurisdictions. This replaced the then-existing criteria that varied depending on the level of local government for which districts were being drawn (i.e., the criteria for drawing electoral districts in a special district was different than the criteria for drawing boundaries for city council districts).

While AB 764 changed the criteria to be used for county redistricting generally, it did not update or alter the laws written specifically for individual county-level redistricting commissions created in state statute. This bill deletes the existing criteria the Commission is required to use when drawing district lines and instead requires it to use the AB 764 criteria by incorporating that criteria by reference.

- 3) We'll Have What They're Having. As noted above, there are slight variations in how individual county-level redistricting commissions have been set up. This measure incorporates several provisions found in the statutes governing Orange and Sacramento counties, both of which were established last year.

Specifically, this bill prohibits a member of the Commission from having an ex-parte communication about redistricting matters with anyone who isn't a member of the Commission's staff or a consultant to the Commission, and in certain cases, a staff member to the Riverside County Board of Supervisors. This provision is identical to a provision found in the statute applying to the Sacramento County Redistricting Commission.

Similarly, the provisions prohibiting commissioners from engaging in certain activities during and for a period of time after their service, including restrictions on receiving non-competitively bid contracts and from making campaign contributions to or endorsing candidates for elective county office comes from the Orange County Redistricting Commission statute. Finally, this bill mirrors a provision found in the Orange County Redistricting Commission statute requiring it to translate various redistricting materials, including outreach materials and agendas, into any language into which the commission is required to arrange for a live translation of its hearings.



- 4) Translations of Redistricting Materials. The Commission is required to arrange for the live translation of its hearings upon request into “applicable languages,” which are any languages for which the number of residents in Riverside County who are members of a language minority is equal to or greater than 3% of the total voting age residents in the county.

This bill requires the Commission, in addition to providing live translations of hearings upon request, to ensure all outreach materials, public notifications, agendas, and content on its website, including instructions for testifying and submitting written public testimony, are translated into all applicable languages.

Based on the most recently available data from the US Census Bureau, it appears Spanish is likely the only language that currently would be considered an “applicable language” in Riverside County.

- 5) Does This Bus Stop At 82nd Street? Possibly, though not right away. The Committee on Rules double-referred AB 1807 to the Committee on Elections & Constitutional Amendments and the Committee on Local Government, which is where it will go next should it be approved today.

**RELATED/PRIOR LEGISLATION**

SB 977 (Laird), which is pending in the Assembly Committee on Local Government, creates a Citizens Redistricting Commission in San Luis Obispo County. SB 977 was approved by this committee on a 6-1 vote.

**PRIOR ACTION**

Assembly Floor:	58 - 13
Assembly Appropriations Committee:	11 - 4
Assembly Elections Committee:	6 - 2

**POSITIONS**

**Sponsor:** Author

**Support:** League of Women Voters of California

**Oppose:** None received

-- END --

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

**Bill No:** AB 544 **Hearing Date:** 6/18/24  
**Author:** Bryan  
**Version:** 6/11/24  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Scott Matsumoto

**Subject:** Voting pilot program: county jails

**DIGEST**

This bill requires the Secretary of State (SOS) to provide grants to three counties to provide a voting location for eligible incarcerated individuals to register to vote and vote.

**ANALYSIS**

Existing law:

- 1) Provides a person is entitled to register to vote if they are a United States citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election.
- 2) Requires the Legislature to ensure people who are mentally incompetent or serving a state or federal prison term for the conviction of a felony are not permitted to register to vote or vote.
- 3) Defines a “polling place” to mean a location where a voter casts a ballot.
- 4) Requires a county elections official to mail a ballot to every active registered voter – including people who are incarcerated in a city or county jail facility.
- 5) Defines “conditional voter registration” (CVR) to mean a properly executed affidavit of registration that is delivered by the county registrar of voters up to 14 days before an election or on Election Day. Requires the ballot cast by that voter be counted if the county elections official determines a person is eligible to register to vote.
- 6) Requires CVR and voting to be offered at all permanent and satellite offices of the county elections official and at all polling places in the county.
- 7) Authorizes any county, pursuant to the California Voter’s Choice Act (CVCA), to conduct elections in which every registered voter is mailed a vote by mail (VBM) ballot and vote centers and ballot drop-off locations are available prior to and on Election Day, in lieu of operating traditional polling places for the election.
- 8) Requires each county probation department to:

- a) Establish and maintain on the county probation department's internet website a hyperlink to information provided by the SOS regarding voting rights for persons with a criminal history; and
- b) Post, in each probation office where probationers are seen, a notice with the internet website address where information provided by the SOS regarding voting rights for persons with a criminal history may be found.

This bill:

- 1) Requires the SOS to operate a pilot grant program to provide grants to three counties to design, implement, and evaluate a program to improve voter participation in jail facilities using appropriated funds.
- 2) Requires grants to be issued in time to support increased participation in statewide primary and general elections from 2026 through 2028. Counties may also provide in-person voting for local and special elections as part of this pilot program.
- 3) Requires the county elections official to coordinate with the county sheriff or county jail facility administrator to provide in-person voting opportunities to eligible incarcerated persons at each jail facility. Requires a plan describing the program to be posted on the county elections official's internet website.
- 4) Requires eligible incarcerated individuals to be provided with information pertaining to accessibility, language translations, voter intimidation, electioneering, and other election-specific information during in-person voting.
- 5) Provides a participating county to provide at least one voting day within at least 29 days before an election.
- 6) Permits an elections official to deviate from the procedures in the Elections Code if they feel the procedures are impractical or unsafe in a jail facility and would undermine the goals of the pilot program to increase voter participation in elections.
- 7) Provides in-person voting opportunities provided by this bill do not count towards a jurisdiction's overall number of required polling locations.
- 8) Requires the county sheriff or jail facility administrator to designate an employee as a voting coordinator at each jail facility for in-person voting who would complete a training prepared by the SOS. The voting coordinator's responsibilities would include, but not be limited to:
  - a) Ensuring voter registration forms are continuously available to incarcerated persons and providing information regarding how to complete the forms and relevant deadlines for completing them; and
  - b) Ensuring the jail facility library contains updated nonpartisan voter education materials and information regarding the voting rights and eligibility of an incarcerated or formerly incarcerated person.

- 9) Requires informational flyers regarding the voting rights and eligibility of an incarcerated person or a person with a criminal history to be posted at least 60 days prior to an election and continuing through Election Day in a conspicuous location in housing and common areas to which incarcerated persons have access.
- 10) Requires the county sheriff or jail facility administrator to, at a minimum, develop policies and procedures to ensure:
  - a) All registration forms and completed vote by mail ballots are timely submitted to the appropriate elections official; and
  - b) The secrecy of the ballot is protected.
- 11) Requires the county sheriff to provide voter eligibility information for incarcerated or formerly incarcerated persons upon intake to, and discharge from, the county jail.
- 12) Permits the county sheriff or jail facility administrator to hold an informational session in a jail facility at least 60 days prior to an election that provides voter education information and materials regarding voter eligibility requirements, deadlines, and steps to register to vote and vote.
- 13) Contains a sunset date of January 1, 2030.

### **BACKGROUND**

In-Person Voting for Incarcerated Individuals. There are models of voter engagement in California and in other states that have increased voter participation among those held in local jails, providing safe, secure elections and improved access for incarcerated persons. In 2020, the Los Angeles (LA) County Registrar-Recorder/County Clerk, in collaboration with the LA County Sheriff's Department and organizations in the community, launched the "We All Count" campaign to educate and assist eligible voters detained in LA County jails with the registration and voting process. The campaign resulted in 1,700 incarcerated voters registered at two jail facilities in LA County. Additionally, during the March 2020 presidential primary election, an in-person voting opportunity was established at the Century Regional Detention Facility and over 90 people cast their ballot inside the jail facility. During the November 2022 statewide general election, LA County expanded its program to a second detention facility and over 40 people cast their ballots inside the two jail facilities.

Other jurisdictions that have made in-person voting available in their local jail facilities include Denver, Washington, D.C., Cook County and Will County in Illinois, and Harris County, Texas.

Unique Barriers and Recent Research. A 2020 Prison Policy Initiative report, "Eligible but Excluded: A Guide to Removing the Barriers to Jail Voting," discussed that while most people in local jails are legally eligible to vote, in practice many are unable to exercise those rights. The report discussed several barriers that prevent those in jail from voting, including confusion about voter eligibility requirements and deadlines for registering to vote and casting a ballot. For example, some states require personal identification (e.g., a social security number or driver's license number) in order to

register or cast a ballot, which can be problematic because when a person is arrested and detained in jail, their personal effects, such as identifications, are typically confiscated. Additionally, incarcerated people have limited or no access to the internet or various paper resources, making it significantly challenging to access voting forms, election resources, or confirm a ballot has been received and/or accepted by election officials. Delays in receiving mail in jail may also impede the timely casting of ballots or voter registration forms.

Barriers to obtaining and submitting a ballot was also highlighted in the report. Some states limit who may vote by mail and typically do not recognize detention in jail as a valid justification to obtain a mail ballot. Additionally, the report discusses high population turnover rates in jails. According to the report, the average jail stay is between three to four weeks. However, many people are incarcerated for much shorter periods of time. A person may register to vote, but end up in jail on Election Day (or for the duration of the voting period). Or conversely, a person may register to vote while in jail, but also be released prior to receiving and/or casting their ballot. In either scenario, a person's registration information will not match their status on Election Day, and thus the person may be unable to vote.

### **COMMENTS**

- 1) According to the Author: "In practice, many counties have vote by mail programs to facilitate voting in county jails. However, statistics indicate that incarcerated persons—a group that is overwhelmingly comprised of people from low-income communities of color – still experience significant barriers to voting and to accessing voter educational materials which results in very low voter turnout among this population of eligible voters.

"AB 544 will create a pilot program that will require the Secretary of State to provide grants to three counties to improve access for people detained at a county jail. It will require the pilot counties to establish a polling location that allows an incarcerated person to return their completed vote by mail ballot, update their voter registration, conditionally register to vote, and vote."

- 2) Already Eligible. Current law provides a person is entitled to register to vote if they are a United States citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election – and requires all voters to be mailed a VBM ballot. In other words, if a person is not serving a state or federal prison term for the conviction of a felony and meets all of the other registration requirements, they are eligible to vote and to receive a ballot in the mail. Regardless of this bill, local jurisdictions are required to provide registration and voting access to all eligible people. To deny access or provide inadequate access to voting for eligible individuals is voter disenfranchisement.
- 3) Why Three Counties & How Will SOS Decide? The bill's grant program is dependent on an appropriation of funds and if funding is provided, then grants have to be provided to three counties.

This bill does not provide for what happens if there is funding to award grants to just one or two counties. Additionally, there is no criteria to direct the SOS on how to

award the grants, what criteria the SOS must use when reviewing grant applications, or how and when the SOS must solicit grant applications.

Committee staff recommends the bill be amended to require the SOS to develop a method for selecting the three counties.

- 4) Ability to Waive the Law? The bill explicitly allows an elections official and a local law enforcement officer to “deviate from the procedures” in the Elections Code if they agree the procedures are impractical, unsafe, or would undermine the goals of the pilot program.

Any exceptions to election procedures would have to be explained and justified in the report the bill requires the elections official to prepare following each election.

The Committee may wish to consider whether this broad authority to effectively waive provisions of the Elections Code is appropriate or whether it would be better to identify specific sections that should be adjusted to both ensure the safety of those in the jail and support the goals of the bill’s pilot program.

- 5) Technical Amendment. The Committee may wish to consider amending the bill to change the word “though” to “through” on Line 19 of Page 3 of the bill so it would read, “...elections from 2026 through 2028.”
- 6) Double Referral. If approved by this committee, AB 544 will be referred to the Committee on Public Safety for further consideration.

**RELATED/PRIOR LEGISLATION**

ACA 4 (Bryan) of 2023, if approved by the voters, would repeal provisions of the California Constitution that prohibit an individual from registering to vote if they are imprisoned in a state or federal prison for a conviction of a felony. ACA 4 is on the Assembly’s inactive file.

AB 1595 (Bryan) of 2023 would make conforming changes to state law if ACA 4 is approved by the Legislature and subsequently approved by the voters. AB 1595 died on the Assembly’s inactive file.

**PRIOR ACTION**

Assembly Floor:	53 - 14
Assembly Appropriations Committee:	12 - 3
Assembly Elections Committee:	6 - 2

**POSITIONS**

**Sponsor:** Ella Baker Center for Human Rights  
League of Women Voters of California

**Support:** California Faculty Association  
Catalyst California  
Disability Rights California  
Initiate Justice  
LA Defensa  
Legal Services for Prisoners with Children  
Western Center on Law and Poverty  
4 individuals

**Oppose:** 9 individuals

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

<b>Bill No:</b>	AB 2050	<b>Hearing Date:</b>	6/18/24
<b>Author:</b>	Pellerin		
<b>Version:</b>	5/20/24		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Scott Matsumoto		

**Subject:** Voter registration database: Electronic Registration Information Center

**DIGEST**

This bill permits the Secretary of State (SOS) to apply for membership with the Election Registration Information Center (ERIC).

**ANALYSIS**

Existing law:

- 1) Permits a person who is a United States (US) citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election to register to vote and to vote in any local, state, or federal election.
- 2) Requires each state, pursuant to the federal Help America Vote Act of 2002 (HAVA), to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list that is defined, maintained, and administered at the state level. The list must contain the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.
- 3) Requires certain information on a voter's registration, such as the voter's name, home address, telephone number, email address, and party preference, to be provided to, among others, any person for election, scholarly, journalistic, or political purposes, or for governmental purposes.
- 4) Requires a voter's driver license (DL) number, identification card number, social security number (SSN), and the signature contained on the registration to be confidential and not be disclosed, as specified.
- 5) Provides the home address, telephone number, e-mail address, precinct number, or other number specified by the SOS for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters, are confidential and shall not be disclosed to any person, except as specified pursuant to existing law.



This bill:

- 1) Permits the SOS to apply for membership with the ERIC.
- 2) Requires the SOS, prior to sending any information or data to ERIC, to receive a certification from the California Department of Technology (CDT) that all proper cybersecurity protections are in place to allow the SOS to send, and ERIC to receive, the data required by ERIC. Requires the SOS to receive a new certification from the CDT any time ERIC's data requirements change.
- 3) Requires the SOS ensure confidential information or data it receives from another state remains confidential while in its possession.
- 4) Permits the SOS to provide confidential information or data to individuals or organizations. Prohibits the SOS from disclosing information or data related to a DL or identification card, as specified, or to citizenship.
- 5) Authorizes the SOS to adopt regulations, which must be developed in consultation with the California Privacy Protection Agency, related to joining ERIC.

### **BACKGROUND**

Registration Data. According to the SOS's February 20, 2024, report of registration, California has approximately 26,638,018 million eligible voters and 22,077,333 million registered voters (82.88%).

Election Registration Information Center. Formed in 2012, the ERIC program is a non-profit membership organization with the sole mission of assisting states to improve the accuracy of America's voter rolls and increasing access to voter registration for all eligible citizens. Currently, 24 states (Alaska, Arizona, Colorado, Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Washington, and Wisconsin) and Washington D.C. are members of ERIC. Each participating state has a voting member on ERIC's board of directors.

According to information provided on the ERIC website, the ERIC data center allows states to securely and safely compare voter data, thereby improving the accuracy of the voter rolls. States participating in ERIC can compare information on eligible voters from official data sources submitted by the states. Each member state submits at a minimum its voter registration and Department of Motor Vehicles (DMV) data. The data includes names, addresses, dates of birth, DL or state identification numbers, and the last four digits of the voter's SSN. Other information, such as phone numbers, email addresses, and record status, are also submitted if they are available. ERIC states it has safeguards in place that anonymizes sensitive identifying data by converting it into indecipherable characters that are unreadable and unusable to potential hackers, through techniques such as "one-way hashing."

These records go through a data-matching exchange that cross checks the information against lists from other participating states, as well as other data sources such as

National Change of Address data from the US Postal Service (USPS) and death records from the Social Security Administration. ERIC then reports back to the states where there is a highly confident match indicating a voter moved or died, or a duplicate record exists. Once states receive the reports, they can then begin the process under federal and state law to update their voter registration records. Participating states also receive information on unregistered people who are potentially eligible to vote. ERIC bylaws require member states to use information regarding eligible or possibly eligible people who are not registered to vote to initiate contact with them about how to register to vote. Member states pay annual dues which vary depending on the population size of the state. Large states usually pay more than small states.

VoteCal. In September 2016, the SOS certified VoteCal and declared it to be the system of record for voter registration in California. VoteCal connects the SOS and all 58 county elections offices to provide a single, official statewide database of voter registration information. It also provides a publically available website, which allows a voter to apply to register online, check their voter registration status, find their polling place, opt-out of being mailed a state voter information guide, and check if their vote by mail or provisional ballot was counted by their county elections official and, if not, the reason why it was not counted.

States Withdrawing from ERIC. ERIC's membership grew to 33 states and Washington D.C, but since that high point, nine states have withdrawn from ERIC (Alabama, Florida, Iowa, Louisiana, Missouri, Ohio, Texas, Virginia, and West Virginia). The reasons for withdrawing from ERIC may vary, but Louisiana cited security concerns.

Colorado and ERIC Mailing. According to an October 2022 news article, approximately 30,000 Colorado residents who are non-citizens and therefore ineligible to register to vote were mailed notices from the state informing them on how they could register to vote. According to the article, the problem occurred when the state compared a list of potential unregistered voters from ERIC with local DMV records. The DMV data included people who hold non-citizen driver's licenses, which were created to allow people without legal residency to drive legally. However, a formatting error caused the system not to flag those individuals as ineligible. Consequently, postcards encouraging voter registration were sent to those drivers. According to the article, in an effort to address this error, Colorado's SOS took additional steps to make sure none of the non-citizens registered to vote.

## COMMENTS

- 1) According to the Author: "The increased accessibility of California's voter registration system has been a great success; in November of 2022, 81.63% of eligible Californians were registered to vote. However, there are almost 5 million eligible and unregistered voters in California, outnumbering the populations of 26 states.

"In an election, accurate voter rolls are crucial for democracy. In California, there are likely millions of voter registration records that are out of date due to a recent move. Joining the Electronic Registration Information Center ensures that elections officials have access to the best data to keep their voter rolls current, and it would provide them with additional tools they could utilize to reach out to unregistered

eligible voters. Becoming an ERIC member state is a natural next step in California's mission to improve the accessibility and ease of voting.”

- 2) Confidential Voter Registration Information. If California participates in ERIC, the SOS would be authorized to provide confidential information or data to a private organization. As a result, this bill significantly changes California's policy to keep certain personal identifying voter information confidential.

ERIC requires the SOS to provide the following data fields, if available, for each voter from both the voter registration lists and DMV lists:

- All name fields;
- All address fields;
- DL or state identification number;
- Last four digits of the SSN; date of birth;
- Activity dates;
- Current record status;
- Phone number; and
- Email address or other electronic contact method.

In order to participate in the program, the SOS would be required to share personal identifying information such as a voter's DL number, SSN, and date of birth, two of which are prohibited by law from being disclosed. However, it should be noted this information would be anonymized before being transmitted.

- 3) Nonprofit versus Government. Elections in the United States are administered and conducted at the state and local levels. As a result, there is not a federal voter registration database. Each state varies on its voter eligibility and registration practices. Due to the lack of a federal voter registration database, ERIC seeks to provide that national coordination. However, ERIC is a nonprofit (i.e., a private entity) and not a government agency.

As such, the Committee may wish to consider whether sending California's voter registration data to ERIC is appropriate.

- 4) Double Referral. If approved by this committee, AB 2050 will be referred to the Committee on Judiciary for further consideration.

### **RELATED/PRIOR LEGISLATION**

AB 1206 (Pellerin) of 2023, was substantially similar to this bill. AB 1206 was held on the Assembly Committee on Appropriations' suspense file.

SB 1316 (Moorlach) of 2020 would have required the SOS to apply for membership with ERIC. SB 1316 was not heard in any policy committee.

AB 2375 (Oberholte) of 2018 would have permitted the SOS to apply for membership with the ERIC. AB 2433 was held on the Assembly Committee on Appropriations' suspense file. Additionally, AB 2433 (T. Allen) of 2016, which had provisions that were

substantially similar to AB 2375 of 2018, was held on the Assembly Committee on Appropriations' suspense file.

**PRIOR ACTION**

Assembly Floor:	59 - 1
Assembly Appropriations Committee:	11 - 2
Assembly Elections Committee:	7 - 0

**POSITIONS**

**Sponsor:** Author

**Support:** California Secretary of State Shirley N. Weber, Ph.D.  
California Association of Clerks and Election Officials  
California Environmental Voters  
California State Association of Counties  
City Clerks Association of California  
County of Los Angeles Board of Supervisors

**Oppose:** ACLU California Action  
Election Integrity Project California, Inc.

**-- END --**



- d) A voting machine, ballot, voting site, or other elections-related property or equipment is portrayed in a materially false way.
- 2) Provides the prohibition detailed above applies 120 days before any election and, with respect to content depicting an officer holding an election or conducting a canvass and depicting elections equipment and materials, for 60 days after the election.
- 3) Permits a candidate, notwithstanding the prohibition detailed above, to portray themselves as doing or saying something they did not do or say if the media includes a disclaimer stating “This (image/video/audio) has been manipulated.”
- 4) Permits a recipient of a communication with deceptively-altered media distributed in violation of this bill, a candidate or committee participating in the election, or an elections official, to seek:
  - a) Injunctive or other equitable relief prohibiting the distribution of the media. Requires the court to award a prevailing plaintiff attorney’s fees and costs, and provides such an action is entitled to precedence in court.
  - b) General or special damages against the entity that distributed the deceptively-altered media. Requires the court to award attorney’s fees and costs to a prevailing party.
- 5) Provides that in any civil action brought under this bill, the plaintiff bears the burden of establishing the violation through clear and convincing evidence.
- 6) Provides this bill does not apply to:
  - a) A broadcast station or a regularly-published news periodical that distributes deceptively-altered media if the media includes a clear acknowledgement it is not accurately representative; or
  - b) Deceptively-altered media that is satire or parody.
- 7) Provides deceptively-altered media is subject to the restrictions of this bill if the media has been intentionally manipulated in a manner such that:
  - a) The file is the product of digital manipulation or artificial intelligence (AI) that appears authentic, but that contains a false portrayal of a candidate, an elected official, an elections official, a voting machine, a ballot, a voting site, or other elections property or equipment; and
  - b) The entity distributed the file knowing the portrayal was false or with a reckless disregard for the true portrayal.

### **BACKGROUND**

Manipulated Media in Campaign Communications. The use of false and deceptive information in campaigns to influence election outcomes is not a new phenomenon.

Laws aimed at curbing such practices and preserving the integrity of elections have a long history in California. The inaugural 1850 session of the California State Legislature created penalties for election misconduct, including for “deceiving [an elector] and causing him to vote for a different person for any office than such elector desired or intended to vote for.”

California law today includes various provisions criminalizing deceptive tactics that undermine election integrity or interfere with voters’ ability to participate in elections. This includes laws that prohibit distribution of false and misleading information about qualifications to vote or about the days, dates, times, and places where voting may occur; prohibit the misleading use of government seals in campaign literature; and prohibit coercing or deceiving people into voting in a way that was inconsistent with the person’s intent.

Artificial Intelligence and Elections. On June 4, 2024, the Senate Committee on Elections and Constitutional Amendments and the Assembly Committee on Elections held a joint information hearing focusing on AI and elections.

The purpose of the hearing was to inform and assist the Legislature in making informed decisions on legislation related to AI-generated and altered content. It became evident that the ease with which people can create and spread mis- and disinformation creates a world where many people may have trouble determining what is fact and what is fiction. The development of increasingly advanced AI tools has made once time-consuming activities much easier to complete, while also enabling the completion of tasks that are otherwise too complex for humans to tackle alone.

State Action. In 2018, the Legislature approved and Governor Brown signed AB 3075 (Berman), Chapter 241, Statutes of 2018 to establish the Office of Elections Cybersecurity (OEC) in the Secretary of State’s (SOS) office. The OEC has two primary missions. First, it is responsible for coordinating efforts between the SOS and local elections officials to reduce the likelihood and severity of cyber incidents that could interfere with the security or integrity of elections in California. The OEC is also tasked with monitoring and counteracting false or misleading information regarding the electoral process that is published online or on other platforms that may suppress voter participation, cause confusion, or disrupt the ability to ensure a secure election. According to the OEC’s website, the office serves California with the sole purpose of keeping every Californian’s vote safe from online interference, especially the spread of mis- and disinformation.

In 2019, the Legislature approved and Governor Newsom signed AB 730 (Berman), Chapter 493, Statutes of 2019. AB 730 sought to address concerns that deepfake technology could be used to spread misinformation in political campaigns. Legislative analyses of AB 730 described “deepfake technology” as software capable of producing a realistic looking video of someone saying or doing something they did not actually say or do.

AB 730 prohibits anyone from distributing deceptive audio or visual media with actual malice and the intent to injure a candidate’s reputation or to deceive a voter, unless the media includes a disclaimer that it has been manipulated. AB 730 does not apply exclusively to deepfakes, it also applies to any intentional manipulation of audio or

visual images where a reasonable person would be misled into believing it was authentic. Notably, AB 730 focused on materially deceptive representations of candidates, and not on deceptive media of other aspects of the electoral process.

AB 730 included a January 1, 2023, sunset date, but in 2022 the Legislature approved AB 972 (Berman), Chapter 745, Statutes of 2022, to extend the sunset date to January 1, 2027.

Tech Accord to Combat Deceptive Use of AI in 2024. In February 2024, 20 technology companies signed the “Tech Accord to Combat Deceptive Use of AI in 2024 Elections.” This set of commitments seeks to combat harmful AI-generated content meant to deceive voters. The signatories included Adobe, Amazon, Anthropic, Arm, ElevenLabs, Google, IBM, Inflection AI, LinkedIn, McAfee, Meta, Microsoft, Nota, OpenAI, Snap Inc., Stability AI, TikTok, Trend Micro, Truepic, and X.

The signatories committed to taking the following steps through this year:

- 1) Develop and implement technology to mitigate risks related to deceptive AI content.
- 2) Assess and better understand the risks presented by deceptive AI election content.
- 3) Seek ways to detect the distribution of deceptive AI election content.
- 4) Seek to address deceptive AI election content.
- 5) Share best practices and explore pathways to share tools throughout the industry.
- 6) Provide transparency to the public.
- 7) Continue to engage with stakeholders to better understand the global risk landscape.
- 8) Support efforts to raise public awareness regarding deceptive AI election content.

Other States. According to the National Conference of State Legislatures, 16 states (Alabama, Arizona, California, Colorado, Florida, Idaho, Indiana, Michigan, Minnesota, Mississippi, New Mexico, Oregon, Texas, Utah, Washington, and Wisconsin) enacted legislation designed to address deceptive media, including but not limited to, AI.

## COMMENTS

- 1) According to the Author: “Those trying to influence elections—conspiracy theorists, foreign states, online trolls, and even campaigns themselves—have already started creating and distributing deepfake images, audio, and video content in the United States and around the world. This generative AI-fueled disinformation can affect voter behavior and undermine faith in our elections.

“Entering the 2024 election, millions of voters will not know what images, audio, or video they can trust, and their faith in election integrity and our democracy will be significantly diminished. AB 2839 will protect our democracy by limiting the spread of harmful disinformation and deepfakes used in political campaign ads including mailers, television, radio, and robocalls.”



- 2) First Amendment Considerations. The First Amendment to the United States (US) Constitution provides in relevant part “Congress shall make no law...abridging the freedom of speech...” Similarly, Section 2 of Article I of the California Constitution provides in relevant part “Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”

This bill seeks to regulate the distribution of intentionally manipulated images, audio, or video related to candidates, elections officials, elected officials, and election materials and equipment under certain circumstances. A question could be raised about whether this bill is consistent with the right to freedom of speech that is guaranteed by the US and California constitutions. The US Supreme Court has ruled that even false statements are protected by the First Amendment (*United States v. Alvarez* (2012), 567 U.S. 709). When a law burdens core political speech, the restrictions on speech generally must be “narrowly tailored to serve an overriding state interest,” *McIntyre v. Ohio Elections Commission* (1995), 514 US 334.

This bill targets deceptive content that could undermine trust in elections, prevent voters from voting, and distort the electoral process. The US Supreme Court generally has found that the protection of the integrity of elections is an overriding (or compelling) government interest (*Id.* at 349; *Burson v. Freeman* (1992) 504 U.S. 191, 199). A challenge of this bill on First Amendment grounds would likely hinge on whether the court found this bill’s provisions to be narrowly tailored.

- 3) Banned Sometimes. This bill prohibits anyone from knowingly distributing a campaign advertisement or other election communication containing materially deceptive and digitally altered or created images or audio or video files with the intent to influence an election or solicit funds for a candidate or campaign from 120 days before an election and, in some cases, 60 days after an election.

However, for the other six to eight months of the year, such content would be permitted to be provided to the public.

The Committee may wish to consider whether this distinction is appropriate and why, if content is materially deceptive, the content shouldn’t be banned entirely from the platform, regardless of how close to an election such content is posted or displayed.

AB 2655 (Berman), which is also on the Committee’s agenda, requires materially deceptive content posted outside of the same elections-related window covered by this bill to be labeled.

- 4) Should It Be Okay For Candidates To Create Misleading Content About Themselves? This bill permits a candidate to falsely portray themselves as doing or saying something they did not do or say, as long as the media includes a disclaimer stating “This (image/video/audio) has been manipulated.”

For example, this provision could permit a candidate to use AI to falsely tell voters they voted one way on a measure when they actually voted another way or be portrayed as visiting a location in an effort to appeal to a certain group of voters, when in reality they have never been to that location.

As such, the Committee may wish to consider if there is the potential for candidates to abuse this section of the bill and whether it should be removed.

- 5) Election Timing. This bill prohibits anyone from knowingly distributing digitally deceptive and altered campaign communication beginning 120 days before an election and ending as many as 60 days after the election. As drafted, this would include any election in California. As a result, in counties where there are large numbers of elections (statewide, legislative, and congressional elections are held in every even-numbered year and many cities hold local elections in odd-numbered years), committees and media companies may be monitoring content almost constantly in order to ensure compliance with the provisions of this bill.
- 6) Double Referral. If approved by this committee, AB 2839 will be referred to the Committee on Judiciary for further consideration.

**RELATED/PRIOR LEGISLATION**

AB 2355 (W. Carrillo) of 2024 requires a campaign committee that creates, originally publishes, or originally distributes a political advertisement to include a disclosure stating that the audio, image, or video was generated or substantially altered using AI. AB 2355 is being considered by this committee.

AB 2655 (Berman) of 2024 requires large online social media platforms to block the posting or sending of materially deceptive and digitally modified or created content related to elections, or to label that content, before and after an election. AB 2655 is being considered by this committee.

**PRIOR ACTION**

Assembly Floor:	59 - 4
Assembly Appropriations Committee:	11 - 3
Assembly Elections Committee:	6 - 1

**POSITIONS**

**Sponsor:** California Initiative for Technology and Democracy

**Support:** American Federation of State, County, and Municipal Employees, AFL-CIO  
 Bay Rising  
 Campaign Legal Center  
 Catalyst California  
 Center for Countering Digital Hate  
 Chinese Progressive Association  
 City and County of San Francisco Board of Supervisors  
 Disability Rights California  
 Hmong Innovating Politics  
 Indivisible CA: Statestrong  
 League of Women Voters of California

MOVE (Mobilize, Organize, Vote, Empower) the Valley  
NextGen CA  
Northern California Recycling Association  
Partnership for the Advancement of New Americans  
SEIU California  
TechEquity Action  
Young People's Alliance

**Oppose:** California Broadcasters Association  
DIRECT TV, LLC  
DISH Network  
Electronic Frontier Foundation

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

**Bill No:** AB 2355 **Hearing Date:** 6/18/24  
**Author:** Wendy Carrillo  
**Version:** 6/11/24  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Scott Matsumoto

**Subject:** Political Reform Act of 1974: political advertisements: artificial intelligence

**DIGEST**

This bill requires a campaign committee that creates, originally publishes, or originally distributes a political advertisement utilizing artificial intelligence (AI) to include a disclosure stating that the audio, image, or video was generated or substantially altered using AI.

**ANALYSIS**

Existing law:

- 1) Creates the Fair Political Practices Commission (FPPC) and makes it responsible for the impartial, effective administration and implementation of the Political Reform Act of 1974 (PRA).
- 1) Prohibits anyone from, until January 1, 2027, distributing within 60 days of an election materially deceptive audio or visual media of a candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate.
- 2) Prohibits anyone from, beginning January 1, 2027, producing, distributing, publishing, or broadcasting campaign material that contains a superimposed image of a candidate unless the campaign material includes a disclaimer that the picture is an inaccurate representation of fact.

This bill:

- 1) Requires a campaign committee that creates, originally publishes, or originally distributes a political advertisement utilizing AI to include a disclosure stating that the audio, image, or video was generated or substantially altered using AI.
- 2) Permits the FPPC to seek injunctive relief or pursue any administrative or civil remedies available to compel compliance. Provides a violation of the provisions of this bill do not constitute a misdemeanor.

## **BACKGROUND**

Artificial Intelligence and Elections. On June 4, 2024, the Senate Committee on Elections and Constitutional Amendments and the Assembly Committee on Elections held a joint information hearing focusing on AI and elections.

The purpose of the hearing was to inform and assist the Legislature in making informed decisions on legislation related to AI-generated and altered content. It became evident that the ease with which people can create and spread mis- and disinformation creates a world where many people may have trouble determining what is fact and what is fiction. The development of increasingly advanced AI tools has made once time-consuming activities much easier to complete, while also enabling the completion of tasks that are otherwise too complex for humans to tackle alone.

State Action. In 2018, the Legislature approved and Governor Brown signed AB 3075 (Berman), Chapter 241, Statutes of 2018 to establish the Office of Elections Cybersecurity (OEC) in the Secretary of State's (SOS) office. The OEC has two primary missions. First, it is responsible for coordinating efforts between the SOS and local elections officials to reduce the likelihood and severity of cyber incidents that could interfere with the security or integrity of elections in California. The OEC is also tasked with monitoring and counteracting false or misleading information regarding the electoral process that is published online or on other platforms that may suppress voter participation, cause confusion, or disrupt the ability to ensure a secure election. According to the OEC's website, the office serves California with the sole purpose of keeping every Californian's vote safe from online interference, especially the spread of mis- and disinformation.

In 2019, the Legislature approved and Governor Newsom signed AB 730 (Berman), Chapter 493, Statutes of 2019. AB 730 sought to address concerns that deepfake technology could be used to spread misinformation in political campaigns. Legislative analyses of AB 730 described "deepfake technology" as software capable of producing a realistic looking video of someone saying or doing something they did not actually say or do.

AB 730 prohibits anyone from distributing deceptive audio or visual media with actual malice and the intent to injure a candidate's reputation or to deceive a voter, unless the media includes a disclaimer that it has been manipulated. AB 730 does not apply exclusively to deepfakes, it also applies to any intentional manipulation of audio or visual images where a reasonable person would be misled into believing it was authentic. Notably, AB 730 focused on materially deceptive representations of candidates, and not on deceptive media of other aspects of the electoral process.

AB 730 included a January 1, 2023 sunset date, but in 2022 the Legislature approved AB 972 (Berman), Chapter 745, Statutes of 2022, to extend the sunset date to January 1, 2027.

Tech Accord to Combat Deceptive Use of AI in 2024. In February 2024, 20 technology companies signed the "Tech Accord to Combat Deceptive Use of AI in 2024 Elections." This set of commitments seeks to combat harmful AI-generated content meant to deceive voters. The signatories included Adobe, Amazon, Anthropic, Arm, ElevenLabs,

Google, IBM, Inflection AI, LinkedIn, McAfee, Meta, Microsoft, Nota, OpenAI, Snap Inc., Stability AI, TikTok, Trend Micro, Truepic, and X.

The signatories committed to taking the following steps through this year:

- 1) Develop and implement technology to mitigate risks related to deceptive AI content.
- 2) Assess and better understand the risks presented by deceptive AI election content.
- 3) Seek ways to detect the distribution of deceptive AI election content.
- 4) Seek to address deceptive AI election content.
- 5) Share best practices and explore pathways to share tools throughout the industry.
- 6) Provide transparency to the public.
- 7) Continue to engage with stakeholders to better understand the global risk landscape.
- 8) Support efforts to raise public awareness regarding deceptive AI election content.

Other States. According to the National Conference of State Legislatures, 16 states (Alabama, Arizona, California, Colorado, Florida, Idaho, Indiana, Michigan, Minnesota, Mississippi, New Mexico, Oregon, Texas, Utah, Washington, and Wisconsin) enacted legislation designed to address deceptive media, including but not limited to, AI.

### **COMMENTS**

- 1) According to the Author: “Since the broad public release of generative AI applications to create sound, video, photos, and text since 2022, we have seen widespread adoption of and noticeable technological improvement in these tools. In a world where fabricated material is easier to create than ever before, protections are needed to ensure that content created by digital tools is properly labelled. Sensible regulation of this type of digital content balances free speech protections with the need to protect and uphold faith in our electoral democracy by updating the disclosure requirements in the PRA.”
- 2) FPPC Enforcement. AB 2355 was recently amended to move its provisions from the Elections Code to the PRA, meaning the FPPC would be responsible for overseeing the bill’s implementation. It is unknown whether the FPPC has the capacity to decide what media is authentic and what is AI generated, as well as being able to seek relief in a timely fashion.
- 3) Double Referral. If approved by this committee, AB 2355 will be referred to the Committee on Judiciary for further consideration.

### **RELATED/PRIOR LEGISLATION**

AB 2655 (Berman) of 2024 requires large online social media platforms to block the posting or sending of materially deceptive and digitally modified or created content related to elections, or to label that content, before and after an election. AB 2655 is being considered by this committee.

AB 2839 (Pellerin) of 2024 prohibits the distribution of campaign advertisements and other election communications containing materially deceptive and digitally altered or created images or audio or video files with the intent to influence an election or solicit funds for a candidate or campaign. AB 2839 is being considered by this committee.

**PRIOR ACTION**

Assembly Floor:	64 - 0
Assembly Appropriations Committee:	13 - 0
Assembly Elections Committee:	7 - 1

**POSITIONS**

**Sponsor:** Author

**Support:** Computer and Communications Industry Association  
Software and Information Industry Association  
TechNet

**Oppose:** None received

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

<b>Bill No:</b>	AB 2642	<b>Hearing Date:</b>	6/18/24
<b>Author:</b>	Berman		
<b>Version:</b>	5/2/24		
<b>Urgency:</b>	Yes	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Evan Goldberg		

**Subject:** Elections: intimidation

**DIGEST**

This bill creates a presumption that a person who openly carries a firearm or imitation firearm while interacting with or observing certain election-related activities is guilty of an intimidation-related crime. The bill allows a victim, an elections official, or the Attorney General (AG) to file a civil action to enforce the law.

**ANALYSIS**

Existing law:

- 1) Makes it a felony for a person to interfere with officials holding an election or conducting a canvass, or with the voters lawfully exercising their right to vote in an election.
- 2) Makes it a felony for a person to threaten a voter or to attempt to intimidate a voter into voting in a certain fashion.
- 3) Makes it a crime for anyone, including law enforcement officials, to carry a weapon within 100 feet of a polling place without the permission of an elections official.
- 4) Makes it a crime for a person to knowingly challenge a person's right to vote without probable cause or on fraudulent or spurious grounds.
- 5) Makes it a misdemeanor for a person to openly carry an "exposed and unloaded handgun" while in a public place or on a public street.

This bill:

- 1) Establishes the Protecting Elections from Armed Coercion and Extremism (PEACE) Act and defines the following terms for the purposes of the Act:
  - "Firearm" means a device designed to be used as a weapon, from which a projectile is expelled through a barrel by the force of an explosion or other form of combustion. It includes any firearm that is in the nature of an air gun, spring gun or pistol, or other weapon in which the propelling force is a spring, an elastic band, carbon dioxide, compressed or other gas or vapor, or air or compressed



air, or is ignited by compressed air, and that ejects a bullet or missile smaller than three-eighths of an inch in diameter with sufficient force to injure a person that is so substantially similar in coloration and overall appearance to an existing firearm or weapon as to lead a reasonable person to perceive that the device is a firearm or weapon.

- “Voting” is defined to include any activity necessary to make a vote effective in any election, including registration or anything else required for a person to vote, casting a ballot by any method permitted by law, and having such ballot counted properly.
- 2) Prohibits a person from intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any other person for:
    - Voting or attempting to vote;
    - Urging or helping any person to vote or attempt to vote;
    - Administering an election; or
    - Their status as a past or present elections official.
  - 3) Provides a person who openly carries a firearm or imitation firearm while interacting with or observing any of the activities described above is presumed to have engaged in intimidation prohibited by this bill – unless there is an affirmative showing to the contrary by a preponderance of the evidence.
  - 4) Provides law enforcement officers acting within the scope of their official duties are not subject to this presumption, but a court can consider a law enforcement officer’s possession of a firearm in determining whether the officer violated the provisions of this bill.
  - 5) Provides a victim may file a lawsuit to enforce this bill’s provisions and if they prevail, they are entitled to recover reasonable attorney’s fees, expert witness fees, and litigation expenses.
  - 6) Allows an elections official and the AG to file an action to enforce the provisions of this bill.
  - 7) States that in order to prevail in a lawsuit, a plaintiff does not have to prove a defendant intended to intimidate, threaten, or coerce any person.
  - 8) Contains an urgency clause, allowing this bill to take effect immediately upon enactment.
  - 9) Makes various findings and declarations.

### **BACKGROUND**

*New York State Rifle and Pistol Association v. Bruen*. On June 23, 2022, the U.S. Supreme Court issued its decision in *New York State Rifle and Pistol Association v. Bruen* 142 S. Ct. 2111 (2022), overturning a New York gun safety law. In a 6-3 ruling, the Court ruled New York’s law requiring a license to carry concealed weapons in public

places is unconstitutional. The Court provided a new test for lower courts to use when evaluating gun safety laws. Previously, courts had applied balancing tests to Second Amendment challenges, weighing the government's public safety interests that support reasonable gun laws against an individual's Second Amendment rights.

The Supreme Court ruled the constitutionality of gun laws will be based on whether the plain text of the Second Amendment protects the activities the laws are regulating. If it does, then "the government must affirmatively prove that its firearms regulation is part of the historical tradition" to set boundaries on gun use. However, at the same time, the Court made it clear that various gun laws would withstand scrutiny under the new test, including laws that restrict the carrying of firearms in "sensitive places," specifically including schools, government buildings, legislative assemblies, polling places, and courthouses.

GIFFORDS Law Center to Prevent Gun Violence and Brennan Center for Justice Report. Last year, the GIFFORDS Law Center to Prevent Gun Violence and the Brennan Center for Justice authored a joint report, "Guns and Voting, How to Protect Elections After Bruen."

The report examines how American democracy has come under pressure as a result of conspiracies about elections and voter fraud that have led to an unprecedented surge in threats and violence towards election workers and voters. The report noted these challenges have been exacerbated by the high rates of gun ownership and the legal challenges to gun safety laws following the U.S. Supreme Court's decision in Bruen. The report proposed several policy solutions to the problem, including prohibiting firearms wherever voting or election administration occurs such as at or near polling places, ballot drop boxes, election offices, and ballot counting facilities. The report argues states need stronger laws to prevent voters, election officials, election workers, and anyone else involved in the vote process from being intimidated.

Intimidation Against California Elections Officials. There have been a number of examples of California elections officials being threatened or intimidated in recent years.

For example, in Shasta County, people who falsely believed voter fraud was taking place in the 2020 and 2022 elections physically crowded election workers while they performed their official duties, bombarded election offices with excessive public records requests, and falsely presented themselves as an "official taskforce" when visiting voters' homes.

Similarly, in Nevada County, the registrar-elect was harassed to the point where she had to resort to getting a restraining order imposed against people who forcibly entered her office and assaulted a staffer.

In San Luis Obispo County, an Asian-American county clerk-recorder experienced months of harassment and was publically accused of being a member of the Chinese Communist Party for refusing to conduct an illegal audit of the 2020 election and the county's voting system.

Federal Activity. In July 2021, the federal Department of Justice established the Election Threats Task Force to provide a federal resource for reporting, evaluating, and investigating threats against election workers.

The federal Election Assistance Commission (EAC) voted unanimously in 2022 to allow states to use federal Help America Vote Act funds to improve the personal security of election officials and provide physical security services and social media threat monitoring to state or local election officials. Last year, the Department of Homeland Security changed its Homeland Security Grant Program to now require states to dedicate at least 3% of the money they receive to election security needs.

The Election Worker Protection Act (S.1318), which is pending in Congress, would provide grants to state and local governments to help recruit and retain poll workers and protect election workers' personal information. The bill also expands federal penalties for threatening, intimidating, or doxing (online harassment that involves sharing a person's private information) election workers. Similarly, the Support Our Elections Workers Act (S. 1609) directs the EAC to award grant money to states to provide increased pay for election workers, and for other purposes as specified.

Baird v. Bonta. In September 2023, a three-judge panel of the U.S. 9th Circuit Court of Appeals ruled in *Baird v. Bonta* that a lower court "abused its discretion" when it declined to halt state enforcement of California laws that ban people from openly carrying handguns in public without a license.

The ruling did not halt enforcement of the laws. Instead, the appeals court sent the case back down to the lower district court for further analysis and provided instructions to the lower court on how to conduct that analysis.

### **COMMENTS**

- 1) According to the Author: "In an era when our nation faces an epidemic of gun violence, as well as escalating threats to elections officials and volunteers, we must prepare for the worst and continue to strengthen our election security and accessibility. California voters and election workers are among those who are at risk of experiencing intimidation and violence. As a result, there has been a nationwide exodus of workers from the job. In California, 41% of the state's counties now have a new chief local elections official, and 44% of voters will see a different election administrator for the 2024 election than the official who oversaw the 2020 election.

"AB 2642 would protect voters and election workers by strengthening and supplementing existing anti-intimidation laws by providing civil remedies to anyone who experiences intimidation, threats, or coercion while engaging in election-related activities. The PEACE Act would make it clear that the polling place is not the place for guns by creating a presumption that people who carry firearms around election activities or workers did so to intimidate. California has long been at the forefront of implementing sensible gun reform and strengthening access to our elections, the PEACE Act would continue this work and ensure that Californians have the freedom to vote without the fear of intimidation."

- 2) Who Should Bear The Burden of Proof? As noted above, there are numerous laws that make it a crime to intimidate voters, elections officials and others connected to the voting and election administration processes.

Beyond the protections in state law, there are also numerous federal laws that make it a crime to intimidate, threaten or coerce someone for voting or attempting to vote, as well as federal statutes that make it illegal to intimidate, threaten or coerce people who are urging or helping others to vote.

This bill, in addition to allowing someone who files suit to recover their costs and allowing elections officials to file suit, creates a presumption that a person who violates the state’s ban on openly carrying a weapon around any elections-related activity is, by definition, engaging in voter intimidation.

The bill states this presumption of intimidation will apply “in the absence of an affirmative showing to the contrary by a preponderance of the evidence.”

Presumably, this will allow a lawsuit to be filed by a person or charges to be filed by an elections official or the AG, and then the person charged will be allowed to rebut the presumption they engaged in intimidation if they can provide evidence to the contrary.

- 3) Does This Bus Stop At 82<sup>nd</sup> Street? Possibly, though not right away. The Senate Committee on Rules has double referred this measure, first to the Senate Committee on Elections & Constitutional Amendments and next to the Senate Committee on Judiciary, which is where it will go should it pass this committee today.

**RELATED/PRIOR LEGISLATION**

SB 485 (Becker) of 2023, clarified the law to ensure “officers holding an election” included elections officials, their permanent staff, temporary workers, and volunteers who conduct certain tasks during the election and canvass. The bill also updated the terms “holding an election or conducting a canvass” and “voting in an election” to reflect recent election reforms and changes in the way voters are returning their ballots.

SB 1131 (Newman) of 2022 required a county elections official, if asked by one of their workers, to make the worker’s residence address, telephone number, and email address on their voter registration confidential. The bill also prohibited the names of precinct board members from being listed when posting information about precinct board members.

**PRIOR ACTION**

Assembly Floor:	59 - 10
Assembly Appropriations Committee:	11 - 4
Assembly Elections Committee:	6 - 2

**POSITIONS**

**Sponsor:** Brennan Center for Justice  
GIFFORDS Law Center to Prevent Gun Violence

**Support:** ACLU California Action  
BRADY California  
BRADY Campaign to Prevent Gun Violence  
California Environmental Voters  
California Voter Foundation  
California Teachers Association  
County of Los Angeles Board of Supervisors  
Disability Rights California  
Indivisible CA: StateStrong  
League of Women Voters of California

**Oppose:** 2 individuals

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

<b>Bill No:</b>	AB 2655	<b>Hearing Date:</b>	6/18/24
<b>Author:</b>	Berman		
<b>Version:</b>	6/11/24		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Scott Matsumoto		

**Subject:** Defending Democracy from Deepfake Deception Act of 2024

**DIGEST**

This bill requires an online platform with at least one million California users to block, prevent the posting or spread of, or to label any elections-related content deemed to be materially deceptive if certain conditions are met.

**ANALYSIS**

Existing law:

- 1) Prohibits anyone from, until January 1, 2027, distributing within 60 days of an election materially deceptive audio or visual media of a candidate with the intent to injure the candidate’s reputation or to deceive a voter into voting for or against the candidate.
- 2) Prohibits anyone from, beginning January 1, 2027, producing, distributing, publishing, or broadcasting campaign material that contains a superimposed image of a candidate unless the campaign material includes a disclaimer that the picture is an inaccurate representation of fact.

This bill:

- 1) Requires a large online platform (platform) using state-of-the-art, best available tools to detect materially deceptive content, to block and prevent the posting or sending of materially deceptive content related to elections if:
  - a) The content is posted between 120 days before the election and through Election Day (or through the 60th day after the election in the case of content that depicts or pertains to elections officials) if the platform knows or should know the content portrays any of the following:
    - i) A candidate for elective office portrayed as doing or saying something they did not do or say and is reasonably likely to harm the reputation or electoral prospects of a candidate.
    - ii) An elections official portrayed as doing or saying something in connection with their elections-related duties they did not do or say and is reasonably

likely to falsely undermine confidence in the outcome of one or more election contests.

- iii) An elected official portrayed as doing or saying something that influences the election that they did not do or say and is reasonably likely to falsely undermine confidence in the outcome of one or more election contests.
  - b) The person or entity who created the materially deceptive content did so knowing it was false or with reckless disregard for the truth. There shall be a rebuttable presumption the person or entity knew the materially deceptive content was false or acted with reckless disregard for the truth if the content would cause a reasonable person to have a fundamentally different understanding or impression of the content than the person would have if hearing or seeing an authentic version of the content.
- 2) Requires platforms to develop and implement procedures for labeling content as inauthentic, fake, or false if the content is posted outside of the time period described in (1) or appears within an advertisement or election communication not subject to (1). This would apply in cases where the person or entity created the content knowing it was false, and the platform knew or should have known that the content was suppose to meet the labeling requirements prescribed by this bill.
  - 3) Requires platforms to provide a way for Californians to report content that was not properly blocked or labeled to the platform. Allows a candidate, elected official, or elections official who reported content to the platform but does not receive a response in 36 hours or disagrees with the response – as well as the Attorney General (AG), a district attorney, or a city attorney – to seek injunctive or other equitable relief against a platform to compel compliance with this bill.
  - 4) Provides this bill does not apply to satire or parody or to a regularly-published online periodical that publishes materially deceptive content that contains a clear disclosure that the content is not an accurate representation of reality.
  - 5) Defines the following terms for the purposes of this bill:
    - a) “Deepfake” to mean audio or visual media that is digitally created or modified such that it would falsely appear to a reasonable person to be an authentic record of the actual speech or conduct of the individual depicted in the media;
    - b) “Materially deceptive content” to mean audio or visual media that is digitally created or modified, and that includes, but is not limited to, deepfakes and chatbots, such that it would falsely appear to a reasonable person to be an authentic record of the content depicted in the media; and
    - c) “Large online platform” to mean a public-facing internet website, web application, or digital application that had at least one million California users in the preceding 12 months.

## **BACKGROUND**

Manipulated Media in Campaign Communications. The use of false and deceptive information in campaigns to influence election outcomes is not a new phenomenon. Laws aimed at curbing such practices and preserving the integrity of elections have a long history in California. During its inaugural session in 1850, the California State Legislature created penalties for election misconduct, including for “deceiving [an elector] and causing him to vote for a different person for any office than such elector desired or intended to vote for.”

California law today includes various provisions criminalizing deceptive tactics that undermine election integrity or interfere with voters’ ability to participate in elections. This includes laws that prohibit the distribution of false and misleading information about qualifications to vote or about the days, dates, times, and places where voting may occur; prohibit the misleading use of government seals in campaign literature; and prohibit coercing or deceiving people into voting in a way that was inconsistent with the person’s intent.

Artificial Intelligence (AI) and Elections. On June 4, 2024, the Senate Committee on Elections and Constitutional Amendments and the Assembly Committee on Elections held a joint information hearing focusing on AI and elections.

The purpose of the hearing was to inform and assist the Legislature in making informed decisions on legislation related to AI-generated and altered content. It became evident that the ease with which people can create and spread mis- and disinformation creates a world where many people may have trouble determining what is fact and what is fiction. The development of increasingly advanced AI tools has made once time-consuming activities much easier to complete, while also enabling the completion of tasks that are otherwise too complex for humans to tackle alone.

State Action. In 2018, the Legislature approved and Governor Brown signed AB 3075 (Berman), Chapter 241, Statutes of 2018 to establish the Office of Elections Cybersecurity (OEC) in the Secretary of State’s (SOS) office. The OEC has two primary missions. First, it is responsible for coordinating efforts between the SOS and local elections officials to reduce the likelihood and severity of cyber incidents that could interfere with the security or integrity of elections in California. The OEC is also tasked with monitoring and counteracting false or misleading information regarding the electoral process that is published online or on other platforms that may suppress voter participation, cause confusion, or disrupt the ability to ensure a secure election. According to the OEC’s website, the office serves California with the sole purpose of keeping every Californian’s vote safe from online interference, especially the spread of mis- and disinformation.

In 2019, the Legislature approved and Governor Newsom signed AB 730 (Berman), Chapter 493, Statutes of 2019. AB 730 sought to address concerns that deepfake technology could be used to spread misinformation in political campaigns. Legislative analyses of AB 730 described “deepfake technology” as software capable of producing a realistic looking video of someone saying or doing something they did not actually say or do.



AB 730 prohibits anyone from distributing deceptive audio or visual media with actual malice and the intent to injure a candidate's reputation or to deceive a voter, unless the media includes a disclaimer that it has been manipulated. AB 730 does not apply exclusively to deepfakes, but also to any intentional manipulation of audio or visual images where a reasonable person would be misled into believing it was authentic. Notably, AB 730 focused on materially deceptive representations of candidates, and not on deceptive media of other aspects of the electoral process.

AB 730 included a January 1, 2023 sunset date, but in 2022, the Legislature approved AB 972 (Berman), Chapter 745, Statutes of 2022, to extend the sunset date to January 1, 2027.

Tech Accord to Combat Deceptive Use of AI in 2024. In February 2024, 20 technology companies signed the "Tech Accord to Combat Deceptive Use of AI in 2024 Elections." This set of commitments seeks to combat harmful AI-generated content meant to deceive voters. The signatories included Adobe, Amazon, Anthropic, Arm, ElevenLabs, Google, IBM, Inflection AI, LinkedIn, McAfee, Meta, Microsoft, Nota, OpenAI, Snap Inc., Stability AI, TikTok, Trend Micro, Truepic, and X.

The signatories committed to taking the following steps through this year:

- 1) Develop and implement technology to mitigate risks related to deceptive AI content.
- 2) Assess and better understand the risks presented by deceptive AI election content.
- 3) Seek ways to detect the distribution of deceptive AI election content.
- 4) Seek to address deceptive AI election content.
- 5) Share best practices and explore pathways to share tools throughout the industry.
- 6) Provide transparency to the public.
- 7) Continue to engage with stakeholders to better understand the global risk landscape.
- 8) Support efforts to raise public awareness regarding deceptive AI election content.

Other States. According to the National Conference of State Legislatures, 16 states (Alabama, Arizona, California, Colorado, Florida, Idaho, Indiana, Michigan, Minnesota, Mississippi, New Mexico, Oregon, Texas, Utah, Washington, and Wisconsin) enacted legislation designed to address deceptive media, including but not limited to, AI.

## **COMMENTS**

- 1) According to the Author: "AB 2655 will ensure that online platforms restrict the spread of election-related deceptive deepfakes meant to prevent voters from voting or to deceive them based on fraudulent content. Deepfakes are a powerful and dangerous tool in the arsenal of those that want to wage disinformation campaigns, and they have the potential to wreak havoc on our democracy by attributing speech and conduct to a person that is false or that never happened. Advances in technology make it easy for practically anyone to generate this deceptive content, making it that much more important that we identify and restrict its spread before it has the chance to deceive voters and undermine our democracy."

- 2) First Amendment Considerations. The First Amendment to the United States (US) Constitution provides in relevant part “Congress shall make no law...abridging the freedom of speech...” Similarly, Section 2 of Article I of the California Constitution provides in relevant part “Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”

This bill seeks to regulate the distribution by online platforms of media containing intentionally manipulated images, audio, or video related to candidates, elections officials, elected officials, and election materials and equipment under certain circumstances. A question could be raised about whether this bill is consistent with the right to freedom of speech that is guaranteed by the US and California Constitutions. The US Supreme Court has ruled that even false statements are protected by the First Amendment (*United States v. Alvarez* (2012), 567 U.S. 709). When a law burdens core political speech, the restrictions on speech generally must be “narrowly tailored to serve an overriding state interest,” *McIntyre v. Ohio Elections Commission* (1995), 514 US 334.

This bill targets deceptive content that could undermine the public’s trust in elections, prevent voters from voting, and distort the electoral process. The US Supreme Court generally has found the protection of the integrity of elections is an overriding (or compelling) government interest (*Id.* at 349; *Burson v. Freeman* (1992) 504 U.S. 191, 199). A challenge of this bill on First Amendment grounds would likely hinge on whether the court found this bill’s provisions to be narrowly tailored.

- 3) Banned Sometimes, Labeled Other Times. This bill requires online media platforms with more than one million users to detect materially deceptive content, block, and prevent the posting or distribution of materially deceptive content related to elections from 120 days before an election and, in some cases, 60 days after an election.

However, for the other six to eight months of the year, the platforms would only have to label the materially deceptive content as such.

The Committee may wish to consider whether this distinction is appropriate and why, if content is materially deceptive, the content should not be banned entirely from the platform, regardless of how close to an election such content is posted or displayed.

- 4) Election Timing. This bill requires platforms to block content beginning 120 days before an election and ending as many as 60 days after the election. As drafted, this would include any election in California. As a result, in counties where there are large numbers of elections (statewide, legislative, and congressional elections are held in every even-numbered year and many cities hold local elections in odd-numbered years), platforms may be blocking content almost constantly in order to ensure compliance with the provisions of this bill.
- 5) Double Referral. If approved by this committee, AB 2655 will be referred to the Committee on Judiciary for further consideration.

### **RELATED/PRIOR LEGISLATION**

AB 2355 (W. Carrillo) of 2024 requires a campaign committee that creates, originally publishes, or originally distributes a political advertisement to include a disclosure stating that the audio, image, or video was generated or substantially altered using AI. AB 2355 is being considered by this committee.

AB 2839 (Pellerin) of 2024 prohibits the distribution of campaign advertisements and other election communications containing materially deceptive and digitally altered or created images or audio or video files with the intent to influence an election or solicit funds for a candidate or campaign. AB 2839 is being considered by this committee.

**PRIOR ACTION**

Assembly Floor:	56 - 1
Assembly Appropriations Committee:	11 - 1
Assembly Elections Committee:	6 - 1

**POSITIONS**

**Sponsor:** California Initiative for Technology & Democracy

**Support:** Disability Rights California  
League of Women Voters in California

**Oppose:** ACLU California Action  
California Chamber of Commerce  
Computer and Communications Industry  
NetChoice  
Software and Information Industry Association  
TECHNET

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

<b>Bill No:</b>	AB 3284	<b>Hearing Date:</b>	6/18/24
<b>Author:</b>	Committee on Elections		
<b>Version:</b>	3/13/24		
<b>Urgency:</b>	No	<b>Fiscal:</b>	No
<b>Consultant:</b>	Evan Goldberg		

**Subject:** Elections omnibus bill

**DIGEST**

Makes various minor and technical changes to the Elections Code.

**ANALYSIS**

Existing law:

- 1) Provides the home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State (SOS) for voter registration purposes, and prior registration information shown on a voter's registration card are confidential. The information cannot be disclosed to anyone except a candidate for office, a campaign committee supporting or opposing a ballot measure, or someone who wants the information for election, scholarly, journalistic, or political purposes.
- 2) Allows a voter to have their residence address, telephone number, and e-mail address from the voter registration card declared confidential.
- 3) Contains provisions governing the signers of nomination papers for candidates for the San Francisco Democratic County Central Committee for the June 5, 2012, statewide primary election.
- 4) Contains provisions that allowed a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly to be conducted by means of an all-mailed ballot election pursuant to provisions of law that were repealed as of January 1, 2021.
- 5) Specifies one chapter in Division 20 of the Elections Code shall not be construed to impose any reporting obligations or to apply to the expenditure of campaign funds in conjunction with pending litigation.

This bill:

- 1) Adds cross-references in various sections of the Elections Code to a voter registration confidentiality program for election workers that was created in 2022.
- 2) Repeals inoperative and obsolete provisions of the Elections Code.

- 3) Corrects erroneous and outdated cross-references in the Elections Code.

### **BACKGROUND**

Each year, the Assembly Elections Committee sponsors a measure to enact various non-controversial changes to the California Elections Code.

The idea is that by putting these technical changes into one bill, the Legislature will save time and money when compared to putting each idea into its own bill. Should any provision be deemed substantive or draw opposition to the bill, it will be removed from the measure.

### **COMMENTS**

- 1) According to the Assembly Elections Committee: “This is an Assembly Elections Committee omnibus bill, containing various minor and technical changes to the Elections Code. All of the changes proposed in this bill are issues identified by Assembly Elections Committee staff.”
- 2) Let’s Keep It Confidential. As noted above, existing law requires certain information from voter registration records to be made available only for specified election, scholarly, journalistic, political, or governmental purposes.

There are a number of programs in existing law that provide a greater level of confidentiality to a voter’s registration records, such as those for victims of domestic violence and for public safety officers. SB 1131 (Newman) became law in 2022, creating a similar new program for election workers who face life threatening circumstances. Various provisions of the Elections Code, however, still need to be updated to include cross-references to this newly created program, which this bill does.

- 3) Sorry Folks, The Park’s Close, The Moose Out Front Shoulda Told Ya. The Elections Code set special rules governing the election of county central committee members for the Democratic Party in the City and County of San Francisco for the June 2012 statewide primary election. Given that election passed many fortnights ago, this section is inoperative and is repealed by this bill.

Also inoperative and being repealed by this bill are two different pilot projects related to special elections. Those projects ended on January 1, 2021.

Until 1996, the Elections Code included provisions limiting the use of surplus campaign funds. Those provisions were repealed by passage of Proposition 208 at the November 5, 1996, statewide general election, but there is another section of law specifying the repealed provisions do not impose reporting obligations or apply to the spending of campaign funds in conjunction with pending litigation. That provision is obsolete given the section of law to which it refers has been repealed, so this measure repeals that obsolete language.

- 4) You're Outdated, and Dare I Say, Erroneous. Various provisions of the Elections Code contain outdated and erroneous cross-references to other provisions of state law. This bill corrects those cross-references.

**PRIOR ACTION**

Assembly Floor:	73 - 0
Assembly Elections Committee:	8 - 0

**POSITIONS**

**Sponsor:** Assembly Elections Committee

**Support:** None received

**Oppose:** None received

**-- END --**

---

**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Catherine Blakespear, Chair  
2023 - 2024 Regular

---

**Bill No:** ACA 8 **Hearing Date:** 6/18/24  
**Author:** Wilson  
**Version:** 6/12/24  
**Urgency:** **Fiscal:** Yes  
**Consultant:** Scott Matsumoto

**Subject:** Slavery.

**DIGEST**

This measure, if approved by voters, prohibits slavery in any form.

**ANALYSIS**

Existing law:

- 1) Provides, pursuant to the 13th Amendment to the United States Constitution, either slavery nor involuntary servitude, except as a punishment for crime where the party has been duly convicted, shall exist within the United States, or any place subject to its jurisdiction.
- 2) Prohibits, pursuant to the California Constitution, slavery is prohibited and involuntary servitude only permitted to punish someone for committing a crime.
- 3) Authorizes the Secretary of the California Department of Corrections and Rehabilitation (CDCR) to enter into contracts with public entities, nonprofit or for profit organizations, and businesses to conduct programs using the labor of incarcerated individuals.
- 4) Authorizes CDCR to employ incarcerated individuals to provide services needed by the state or any political subdivision including any county, district, city, school or other public use. CDCR can also contract with the federal government, or any of its agencies or departments, and with the government of any other state for the use of incarcerated Californians.
- 5) Allows CDCR to employ incarcerated individuals to provide emergency services for the preservation of life or property within the state, whether that property is owned by public entities or private citizens, when a county level state of emergency has been declared due to a natural disaster and the local governing board has requested assistance.
- 6) Allows CDCR to require every able-bodied incarcerated individual imprisoned in any state prison to work as many hours of faithful labor in each and every day during the person's term of imprisonment as is prescribed by the rules and regulations of the Secretary of CDCR.

- 7) Makes it a felony to hold, or attempt to hold, any person in involuntary servitude, or assume, or attempt to assume, rights of ownership over any person. It is also a felony to sell, or attempt to sell, any person to another, or receive money or anything of value for placing a person in the custody, or under the power or control of another, or to knowingly aid and assist in any manner any of those crimes.
- 8) Establishes the crime of human trafficking if a person deprives or violates the personal liberty of another with the intent to obtain forced labor or services. A person convicted of this crime is subject to imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than \$5,000.

This measure:

- 1) Prohibits, subject to voter approval, slavery in any form.
- 2) Prohibits a person incarcerated by CDCR or in a jail facility from being punished for refusing a work assignment.
- 3) Provides the prohibition on slavery does not prevent CDCR or any local entity operating a jail facility from awarding an incarcerated person credit toward their sentence for voluntarily accepting a work assignment.

### **BACKGROUND**

Involuntary Servitude. The Thirteenth Amendment of the U.S. Constitution was ratified in 1865 and prohibited slavery and involuntary servitude. However, an exception was allowed if involuntary servitude was imposed as punishment for a crime. Article I, Section 6, of the California Constitution contains the same prohibitions on slavery and involuntary servitude and the same exception for involuntary servitude as punishment for a crime. The California Supreme Court has interpreted the prohibition on slavery and involuntary servitude contained in Article I, Section 6 of the California Constitution to be coextensive with the protection afforded by the Thirteenth Amendment. (*Moss v. Superior Court* (1998) 17 Cal.4th 396, 418.)

Labor in Prisons. Penal Code section 2700 requires CDCR to “require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations [of the department].” Upon arrival at a prison reception center, incarcerated individuals go through a classification process and are placed on waiting lists for jobs and rehabilitative programs. Incarcerated individuals cannot refuse a job assignment and may be disciplined for refusing or failing to show up to work. Refusal to accept or perform in a work or training assignment can also lead to reduced privileges, including limitations on visits, phone calls, canteen purchases, and yard, entertainment and recreation access. Notably, incarcerated individuals may be assigned to a job in lieu of enrollment and participation in rehabilitative programs without the individual’s consent.

Wages in Prisons. Beginning on April 16, 2024, CDCR increased wages for all incarcerated workers, a move that is expected to result in many full-time jobs being



converted to part-time jobs. In fact, CDCR expects that up to 75% of assignments will be half-time. Given many incarcerated people have historically worked full-time assignments and had to choose between work assignments and rehabilitative programs, CDCR asserts these changes will expand opportunities for incarcerated people to work and programs. Wages were increased to a maximum of \$0.74 per hour.

Incarcerated individuals housed at one of the state's conservation/fire camps are subject to a different pay scale with a pay rate of \$5.80 to \$10.24 per day based on skill level and position. The new maximum daily wage of \$10.24 represents a doubling of the previous daily wage.

Individuals working for the California Prison Industry Authority (CalPIA) are also subject to a different pay scale. CalPIA is a self-supporting state entity established to operate industrial, agricultural, and service enterprises employing incarcerated individuals in CDCR facilities to provide products and services needed by the state or other public entities. Penal Code section 2801 requires CalPIA to create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure incarcerated individuals employed by CalPIA have the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills. CalPIA manages over 100 manufacturing, service, and consumable operations, including optical labs, carpentry and custodial services, production of license plates, among others. Penal Code section 2811 prohibits CalPIA compensation from exceeding half of the state's minimum wage. CalPIA currently has a five-level pay scale with the lowest paid scale ranging from \$0.35-\$0.45 per hour and the highest scale ranging from \$0.80 to \$1 per hour.

State prison and county jail officials are also able to contract with public entities, businesses, and others to provide the labor of incarcerated workers through the Joint Venture Program established by Proposition 139 in 1990. Wages are required to be comparable to the wages of non-incarcerated individuals doing similar work. These wages are subject to deductions for federal, state, and local taxes, reasonable charges for room and board, court or victim restitution, and allocations for family support. The total amount of the deductions cannot in the aggregate exceed 80% of gross wages.

### **COMMENTS**

- 1) According to the Author: "Involuntary servitude is an extension of slavery. There's no room for slavery in our constitution, which should reflect our values in 2023. The legacy of slavery and forced labor runs deep in California's history, from the exploitation of Indigenous people in Spanish missions to Black slaves forced to mine for gold. Today, slavery takes on the modern form of involuntary servitude, including forced labor in prisons. Slavery is wrong in all forms and California should be clear in denouncing that in the Constitution.

"ACA 8 prioritizes rehabilitation for incarcerated people. Incarcerated people should be able to choose jobs and shifts that allow them to continue their education, use the law library, get counseling, and participate in other rehabilitative programs that facilitate growth and transformation."

- 2) Moving From Coercion to Incentive. The California Constitution prohibits slavery and prohibits involuntary servitude, except to punish a crime.

This measure eliminates the provisions related to involuntary servitude and replaces them with a provision that prohibits CDCR and the operator of a local jail facility from punishing any incarcerated individual for refusing a work assignment.

The measure does permit CDCR and the operator of a local jail facility to award an incarcerated person credit towards their sentence for voluntarily accepting a work assignment.

Put more plainly, the measure prohibits incarcerated individuals from being required to work and from being punished if they refuse to work, but it does permit them to be offered credit towards their sentence if they voluntarily agree to work.

- 3) Companion Bill. AB 628 (Wilson) of 2024 is a companion bill for ACA 8 and is contingent upon voter approval of ACA 8. AB 628 provides for the implementation of ACA 8 by eliminating the requirement that every able-bodied prisoner imprisoned by CDCR work as many hours of faithful labor in each day and every day during the person's term of imprisonment. That would be replaced by a requirement that CDCR develop a voluntary work program and prescribe rules and regulations regarding work and programming assignments for CDCR inmates, including how the incarcerated individuals should be compensated for work assignments.

A proposed amendment or revision to the California Constitution approved by voters takes effect on the fifth day after the Secretary of State files the statement of the vote following the election unless the measure specifies a different operative date. However, as ACA 8 does not provide a different operative date, if it is approved by voters at the November 5, 2024, general election, then it will take effect prior to January 1, 2025. This relates to the companion bill because bills take effect at the beginning on each year, unless otherwise noted in the bill. In order for the companion bill to take effect after voters approve ACA 8 and before the start of 2025, an urgency provision in AB 628 is needed.

- 4) Technical Amendment. Committee staff recommends the following amendment in Line 16 of Page 2 of the measure:

*(c) This section does not prohibit the Department of Corrections and Rehabilitation or any local entity operating a jail facility from awarding an incarcerated person credit ~~towards~~ toward their sentence for voluntarily accepting a work assignment.*

- 5) Double Referral. Prior to being considered by this committee, ACA 8 was heard in the Senate Committee on Public Safety and approved on a 4-1 vote.

### **RELATED/PRIOR LEGISLATION**

AB 628 (Wilson) of 2024 requires CDCR to develop a voluntary work program and prescribe rules and regulations regarding work and programming assignments for CDCR inmates, including the wages for work assignments. AB 628 is pending in the

Senate Committee on Public Safety and its enactment is contingent upon voter approval of ACA 8.

ACA 3 (Kamlager) of 2022 would have removed language in the California Constitution that allows involuntary servitude as punishment to a crime. This measure failed passage on the Senate Floor.

SB 1371 (Bradford) of 2022 would have required CDCR to adopt a five-year implementation schedule to increase the wages of individuals incarcerated in the state’s prisons. SB 1371 was vetoed by Governor Newsom, who stated, in part:

*With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. We must prioritize existing obligations and priorities, including education, health care, public safety and safety-net programs.*

*The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process.*

**PRIOR ACTION**

Senate Public Safety Committee:	4 - 1
Assembly Floor:	68 - 4
Assembly Appropriations Committee:	11 - 2
Assembly Public Safety Committee:	7 - 0

**POSITIONS**

- Sponsor:** The 10P Program  
A New Way of Life  
Abolish Slavery National Network  
ACLU California Action  
Aging People in Prison Human Rights Campaign  
All of Us or None  
Anti-Recidivism Coalition  
Anti-Violence Safety and Accountability Project  
ASCRIBE  
Asian Prisoner Support Committee  
California Lawyers for the Arts  
Cast LA  
Coalition for a Just and Equitable California  
Communities United for Restorative Youth Justice  
EDIFYE  
Freedom United  
GLIDE Foundation

Homies Unidos  
Impact Justice  
Indivisible CA: StateStrong  
Just Cities  
Legal Aid at Work  
Legal Services for Prisoners with Children  
March On  
Norcal Resist  
Pride In Truth  
Prison from the Inside Out  
Represent Justice  
Sister Warriors Freedom Coalition  
Starting Over Inc.  
The Love We Don't See  
TimeDone  
Village Advocates  
Youth Leadership Institute

**Support:** California Innocence Coalition  
California Teachers Association  
Children's Defense Fund – California  
Courage California  
Fair Chance Project  
League of Women Voters of California  
PICO California  
Riverside All of us or None  
San Diego Democrats for Equality  
San Francisco Public Defender's Office  
Starting Over Strong  
Underground Scholars Initiative at the University of California, Berkeley  
Worksafe  
Young Women's Freedom Center  
3 individuals

**Oppose:** 1 individual

-- END --