

**California Secretary of State**  
**Proposed Regulatory Action: Statewide Voter Registration System**  
**Notice**

NOTICE IS HEREBY GIVEN that the Secretary of State (SOS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Persons in this Notice, must be received by the SOS at its office not later than 5:00 p.m. on March 24, 2020.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the contact persons listed below no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the SOS, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact persons and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Public Comment Period: February 7, 2020, through March 24, 2020.

AUTHORITY AND REFERENCE

Authority cited: Section 12172.5, Government Code and Sections 10 and 2168, Elections Code.

Reference cited: National Voter Registration Act of 1993, 52 U.S.C. Section 20507; Help America Vote Act of 2002, 52 U.S.C. Sections 20102, 20505, 21083, Pub.L. No. 107-252, § 303(a) (October 29, 2002) 116 Stat. 1666, 42 U.S.C Section 15483; Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Sections 20302, et seq.; Voting Accessibility for the Elderly and Handicapped Act, Section 52 U.S.C. § 20102(1)(b)(2)(B)(ii); California Elections Code sections 323, 338.5 2000, 2100, 2101, 2102, 2150, 2153, 2154, 2155, 2166, 2166.5, 2166.7, 2168, 2170, 2187, 2189, 2193, 2201, 2205, 2206, 2212, 2220, 2221, 2223, 2224, 2225, 2226, 2227, 2263, 2500, 2501, 3000 – 3026, 3400, 3402, 3500 12223, 12241, 12260, 12281, 12286, 14310, 14311; Civil Code Sections 1798, et seq.; California Code of Regulations Title 2, Division 7, Chapter 1, Article 3.5 section 20025, 20026; State Administration Manual sections 5320, 5320.1, 5320.2, 5321.1; National Institute of Standards and Technology Special Publication 800-175B; Federal Information Processing Standards Publication 140-2.

## INFORMATIVE DIGEST

### A. Informative Digest

The Help America Vote Act of 2002 (HAVA) (52 U.S.C. 21083, et seq.), which was signed into law on October 29, 2002, provides federal funding to states conditioned upon the planned implementation of certain requirements, including the establishment of a statewide voter registration system database. Section 21083 of HAVA requires that each state having voter registration requirements shall, through the chief state elections official establish a single, uniform, official centralized, interactive computerized statewide voter registration list. In accordance with HAVA requirements, a new statewide voter registration database has been developed by the SOS and implemented in all 58 counties. These proposed new regulations will replace the current established standards and procedures used by counties for processing, transmitting, and maintaining voter registration records. These new regulations comply with the requirements of HAVA Section 21083 and assure the uniform application and administration of state election laws.

The purpose of repealing Title 2, Division 7, Chapter 2, Statewide Voter Registration Database, of the California Code of Regulations and replacing it with Title 2, Division 7 Chapter 1, Article 2.5 of the California Code of Regulations is as follows:

1. To provide guidance to county elections officials on the procedures for processing voter registrations for all registrants including pre-registrants and confidential voters.
2. To eliminate outdated requirements that are no longer relevant to the processing of voter registrations.
3. To establish Election Management System (EMS) standards for certification.
4. To establish voter registration security requirements.
5. To ensure that EMS vendors adhere to any applicable federal and state laws, the statewide voter registration system EMS Integration Specifications, and the Data Standards, and participate on ongoing verification of compliance with these standards.
6. To require regular synchronization checks that identify and resolve data differences between the statewide voter registration system and county systems.
7. To clarify list maintenance activities such as matching voter records, processing Department of Motor Vehicle change of address records, felon and death records, and inactivating and cancelling voter registrations.
8. To ensure that the Report of Registration and Official List contain the most current list of voters that appears in their correct districts and precincts and accurately reflect the voters in each county.
9. To provide transparency for the public on voter registration and voter participation.

### B. Policy Statement Overview/Anticipated Benefits of Proposal

The proposed regulations were drafted for the purpose of addressing the new statewide voter registration system processes and to give guidance that will ensure data accuracy and consistency across the state. These changes amend definitions, define processes and add new procedures to conform to requirements needed for processing data in the new statewide voter registration

system. These proposed regulations also eliminate outdated requirements that are no longer relevant to the processing of voter registrations. In addition, these regulations will provide transparency for voters to view their voter participation history and to determine if their vote by mail or provisional ballots were processed.

#### C. Consistency/Compatibility with Existing State Regulations

After conducting an evaluation of regulations in this area, the SOS has determined that these are the only regulations dealing with statewide voter registration system. This regulatory proposal updates existing regulations relating to the statewide voter registration database. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

#### D. Documents Incorporated by Reference:

- VoteCal System EMS Integration and Data Exchange Specifications Document, revised June 29, 2016
- VoteCal Data Standards, revised January 27, 2020
- California Application for Certification of an Election Management System, version 1.0
- National Institute of Standards and Technology Special Publication 800-175B, published August, 2016
  - Readily available online at: <https://csrc.nist.gov/publications/detail/sp/800-175b/final>
- Federal Information Processing Standards Publication 140-2, published May 25, 2001
  - Readily available online at: <https://csrc.nist.gov/publications/detail/fips/140/2/final>

#### E. Documents Relied Upon in Preparing the Regulations:

- Sections 20250 through 20253 of Division 7 of Title 2 of California Code of Regulations
- Brennan Center for Justice report titled “Preparing for Cyberattacks and Technical Failures: A Guide for Elections Officials” ([https://www.brennancenter.org/sites/default/files/2019-12/2019\\_12\\_ContingencyPlanning.pdf](https://www.brennancenter.org/sites/default/files/2019-12/2019_12_ContingencyPlanning.pdf))
- Election Security Advance Planning Checklist prepared by Brennan Center for Justice ([https://www.brennancenter.org/sites/default/files/2019-12/2019\\_12\\_ContingencyPlanningChecklist\\_Final.pdf](https://www.brennancenter.org/sites/default/files/2019-12/2019_12_ContingencyPlanningChecklist_Final.pdf))
- Election Security Recourse Library developed by the Department of Homeland Security. (<https://www.dhs.gov/publication/election-security-resource-library?topic=election-security>)
- CIS Critical Security Controls, 41<sup>st</sup> Edition (dated Winter, 2016) (<https://www.cisecurity.org/white-papers/cis-controls-2016-poster/>)

### DISCLOSURES REGARDING THE PROPOSED REGULATIONS

*The SOS has made the following initial determinations:*

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Mandate on Local Agencies and School Districts: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement: None

Business Impact: The SOS has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: The SOS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None

Effect on Small Business: The SOS has determined that the proposed regulations would not affect small businesses. The proposed regulations are updating the regulations to conform to current business practices. The proposed regulations affect counties and individuals, neither of whom are small businesses.

### RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The SOS has determined that the proposed regulations are (1) unlikely to create or eliminate any jobs in California, (2) unlikely to create or eliminate any California businesses, and (3) unlikely to result in the expansion of businesses currently doing business within California. The proposed regulations reflect updated business practices for the new statewide voter registration system. These regulations do not significantly change existing business practices such that jobs or businesses would be created or eliminated.

Benefits of the Proposed Regulations: The benefits of the regulation to the health and welfare of California residents lies in the fact that these regulations will eliminate outdated requirements, define processes, add new procedures and give guidance to ensure data accuracy and data constancy statewide. These regulations will ultimately benefit California residents as they will expand the opportunities for them to participate in the democratic process by providing voters, via the SOS website, the ability to determine if they are registered to vote, their political party and language preference, if their participation history was recorded and the status of their vote by mail or provision ballot.

### CONSIDERATION OF ALTERNATIVES

The SOS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private

persons or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments relevant to the above determinations.

INITIAL STATEMENT OF REASONS, THE TEXT OF PROPOSAL AND THE  
RULEMAKING FILE

The SOS has prepared an Initial Statement of the reasons for the proposed action and has available all the information upon which the proposal is based. The Initial Statement of Reasons is available on the SOS's website.

Copies of the express language of the proposed regulations, any document incorporated by reference, the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained throughout the rulemaking process upon request from the SOS contact or on the website listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND  
RULEMAKING FILE

A Final Statement of Reasons will be created after the closing of the public comment period. A copy of the final statement of reasons can be obtained once it has been prepared from the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Raj Bathla  
Secretary of State  
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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at:  
<https://www.sos.ca.gov/administration/regulations/proposed-regulations/>.