

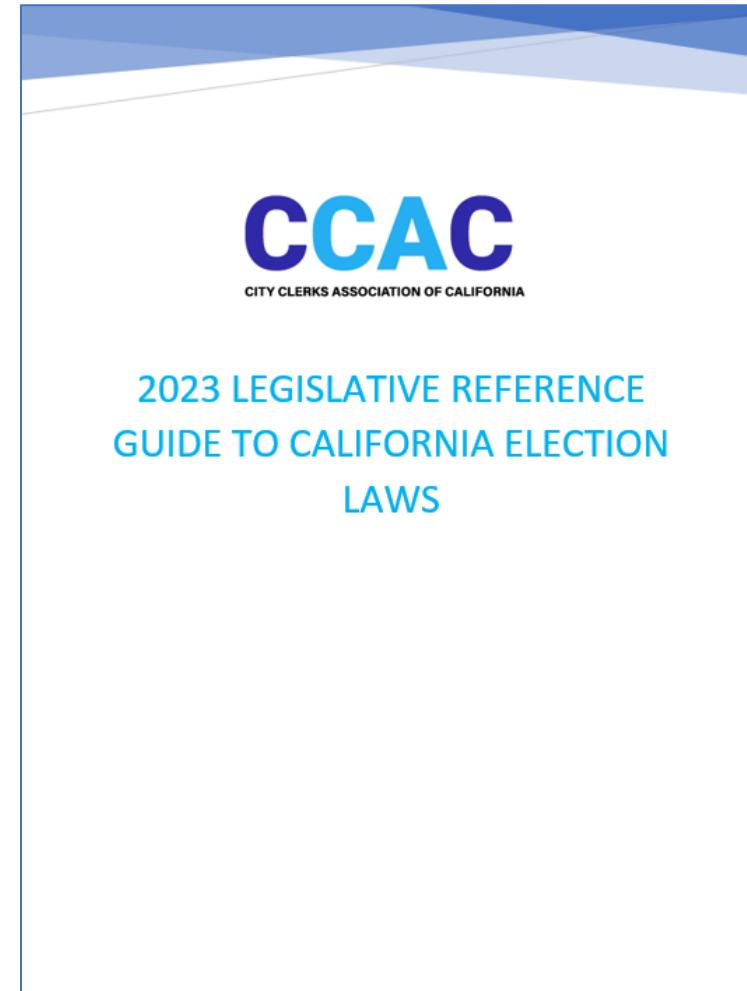
2023 City Clerk New Law Seminar

Dane Hutchings and Michael S. Cohen
Moderated by Randi Johl

Comparisons

2023 City Clerk New Law

Your user guide



Overview

- Elections, Polling, and Ballots
- Elections Officials and Voter Registration
- Open Meeting Laws
- Governmental Bodies
- Redistricting
- Looking Ahead to 2024
- Appendix (slides not covered)

Elections, Polling & Ballots

AB 63 (Cervantes) – Canvass of the vote: reporting results

- Requires the elections official, beginning no later than the Thursday following the election until submission of a certified statement of the results, to post updated information regarding the election on their internet website at least once per week.



AB 292 (Pellerin) – Primary elections: ballots

- Requires, for any nonpartisan ballot provided to a voter who has declined to disclose a political party preference for use in a presidential primary election, that the ballot provide specified information regarding how a voter may request and vote a partisan ballot.



AB 292 Considerations

- *No Party Preference (“NPP”) voters cannot vote in a presidential primary election unless authorized by a political party. NPP voters are sometimes surprised to find that their ballot omits an option to vote for President.*
- *This bill will make it easier for NPP voters to request partisan ballots and crossover vote in partisan presidential primaries, if allowed by the political party, potentially boosting voter engagement and turnout.*

AB 398 (Pellerin) – Voting: replacement ballots

- Removes the requirement that the voter provide a statement under penalty of perjury and instead require the elections official to provide a replacement ballot when voter has failed to receive, lost, or destroyed their original ballot.
- Requires the voter making the request to provide the elections official with personal identifying information.
- Requires the elections official, prior to issuing the replacement ballot, to advise the requester that a request for a replacement ballot made by a person other than the registered voter is a criminal offense.



AB 398 Considerations

- *This bill is a part of a larger pattern of optimizing California's vote-by-mail system. Its contribution is streamlining the ballot replacement process for voters and elections officials.*
- *If the voter need not provide a statement under penalty of perjury, and if elections officials need not process those statements, elections officials can act quickly on replacement ballot requests as they come in – be it telephonically or through some other means.*
- *Note that this bill does not change the requirement that a voter submit a written request if the voter wants a replacement ballot sent to someone other than the voter themselves.*

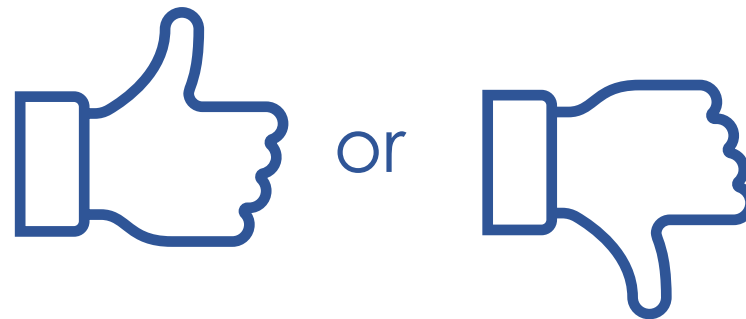
AB 421 (Bryan) – Elections: referendum measures

Passed with an Urgency Clause

- Revises the ballot title and summary and ballot label requirements for statewide referendum measures.
- Instead of the traditional format, the bill mandates the ballot title and summary to be posed in the form of a question, asking whether the state should keep or overturn the law proposed to be overturned. This is followed by a summary of the chief purposes and points of the law. The question and a condensed version of the summary are required to be included on the ballot label.
- Furthermore, the ballot title and summary in the state voter information guide for a statewide referendum measure are now required to be followed by the measure's top funders.

AB 421 Considerations

- *This bill is about transparency and reducing voter confusion. Voters are sometimes confused that a “Yes” vote is against a referendum but for the statute subject to it, and a “No” vote is for the referendum but against the statute subject to it.*
- *This bill might help reduce that confusion by framing a referendum measures similarly to how we frame other issues on the ballot.*



AB 545 (Pellerin) – Elections: access for voters with disabilities

- Expands the list of required supplies for each polling place, specifically adding items to assist voters with disabilities.
- It also allows curbside voting regardless of the accessibility of the polling location.



AB 626 (Pellerin) – Voting: returning vote by mail ballots in person

- Authorizes a voter to vote their vote by mail ballot without the identification envelope if the voter returns the ballot in person at the designated polling place for the voter's home precinct or a vote center.
- Requires a ballot cast in this manner to be processed and counted like a nonprovisional ballot cast in person at the polling place or vote center.



AB 626 Considerations

- *By removing the identification envelope requirement, elections officials will no longer have to verify the information on that envelope before processing mail ballots. This delays that counting of mail ballots.*
- *This bill should increase the number of mail ballots that can be counted on election day and reflected in election night results.*

AB 773 (Pellerin) – Elections: filings

Passed with an Urgency Clause

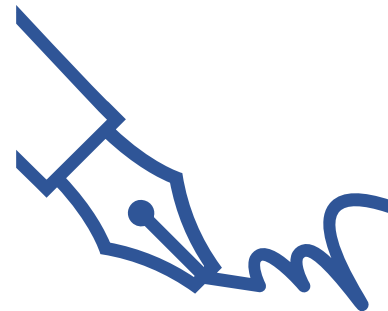
- Establishes procedures for authors to submit arguments for and against local ballot measures and rebuttals, in accordance with deadlines set by local elections officials. It designates a lead county for local district or school district elections that encompass more than one county.
- Authors of arguments for or against district or school district measures must submit arguments to the elections' official of the lead county. The elections official of the lead county works with other counties within the district boundary to establish deadlines for receipt of the arguments.
- The elections official of the lead county selects the arguments for publication in the county voter information guide and transmits copies to elections officials in other counties within the district or school district.
- The bill also allows for remote, electronic filing of candidate statement of qualification forms for candidates running in a multicounty district.

AB 773 Considerations

- *Since local districts or school districts must determine the date for submission of arguments for and against local ballot measures, multicounty ballot measures can cause confusion about relevant deadlines.*
- *Additionally, the same local measure can have different arguments for and against the measure printed in county voter guides. This bill should help rectify those issues by designating a single county to take the lead in this process.*
- *Filing hard copies of candidate statements of qualification can be challenging in California's large, multicounty districts. This bill lowers the burden of this filing requirement.*

AB 1037 (Berman) – Vote by mail ballots: signature verification

- Expands the methods of submitting signature verification statements or unsigned identification envelope statements for vote by mail ballots. Instructions sent to voters must state that they may submit these statements by other electronic means made available by the local elections official.
- If other electronic means are offered, the local elections official must establish appropriate privacy and security protocols for the transmitted information.

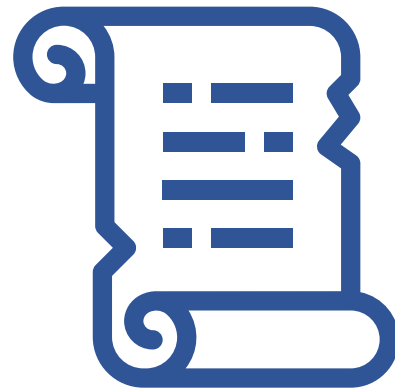


AB 1037 Considerations

- *This bill is part of California's project to reduce the number of rejected mail ballots.*
- *Ballot rejection due to a missing or mismatched signature is troubling for any voter, and it disproportionately impacts voters who are already particularly prone to disenfranchisement.*
- *This bill takes another step to simplify the process for curing ballot signature issues by providing voters with an electronic cure process.*

AB 1219 (Berman) – Elections: ballots

- Revises and recasts existing law related to ballot layout specifications. It specifies the font and location of certain text, revises ballot instructions provided to voters, and requires instructions to communicate how to cast a vote, write in a candidate, and address mistakes in plain language.

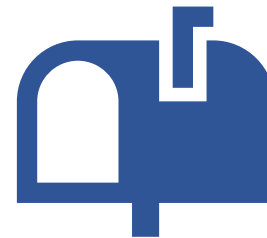


AB 1219 Considerations

- *This bill implements the much-anticipated recommendations of the California Ballot Design Advisory Committee, which was established in 2019.*

SB 297 (Allen) – Elections: initiatives and referenda: withdrawal

- Modifies the process for withdrawing a statewide initiative or referendum measure. Instead of requiring all proponents to file a written notice for withdrawal, a majority of the proponents can now file the notice.
- It also allows proponents to file a contingent withdrawal notice based on the enactment of a specified legislative measure.
- The Secretary of State deems the withdrawal effective if the legislative measure is enacted before certifying the initiative or referendum measure for the ballot.



SB 297 Considerations

- *This bill could help solve the “single holdout” problem created by the mechanism in place for initiative proponents to remove their measure from the ballot before it officially qualifies for the next election.*

SB 678 (Umberg) – Elections: disclosures

- Requires individuals paid by a committee to support or oppose a candidate or ballot measure on internet websites, web applications, or digital applications to include a disclaimer stating that they were paid by the committee.
- If a disclaimer is not already required, the bill mandates its inclusion. The committee must notify the individual posting content about this disclaimer requirement. Non-compliance doesn't lead to administrative penalties, but the Political Reform Commission can seek injunctive relief for disclosure.
- An exemption is provided for content posted by a compensated employee on their own social media if the only expense is staff time.

SB 678 Considerations

- *Online political advertisement disclosures are already required, but only if a campaign committee posts the advertisement. This bill ensures that a committee cannot avoid disclosures simply by paying a third party to post content.*

SB 798 (Glazer) – Elections: local bond measures: tax rate statement

- Requires the tax rate statement that is required to be included in the sample ballot for local bond measures to include a tax rate per \$100,000 of assessed valuation on all property to be taxed to fund a bond issue, instead of a tax rate per \$100 of assessed valuation on all property to be taxed to fund the bond.



SB 798 Considerations

- *This better reflects how we think about potential tax burden, arguably improving transparency.*

Election Officials and Voter Registration

AB 969 (Pellerin) – Elections: voting systems

Passed with an Urgency Clause

- Prohibits an elections official from performing a manual vote count in a semifinal official canvass for contests held on an established election date with more than 1,000 registered voters or contests held on a non-established election date with more than 5,000 registered voters as of 154 days in advance of the election.
- Manual vote counts are allowed only if conducted pursuant to a plan approved by the Secretary of State.



AB 969 Considerations

- *This bill is targeted at Shasta County, which moved to tally votes by hand despite a preexisting contract for new electronic voting machines.*
- *Manual counts have been shown to be less accurate, slower, and more costly than machine tabulations.*

SB 485 (Becker) – Elections: election worker protections

- Amends current law related to interference with election processes. It specifies that interference with the Secretary of State and their staff, elections officials and their staff (including temporary and poll workers), or a member of a precinct board constitutes a crime.
- The bill also clarifies that "holding an election or conducting a canvass" includes the election observation process and "voting at an election" includes dropping a ballot off at a drop-off location.



SB 485 Considerations

- *This bill is part of California's effort to protect election workers from bad actors, which follows a national trend. The current climate has caused many election workers to leave their profession altogether, creating shortages in an all-important component of the election system.*
- *Some of the conduct that this bill deems illegal is arguably already covered by existing law. But enforcement of that law is inconsistent and, by some accounts, inadequate. Additional specificity may empower or better guide law enforcement and may give some comfort to some voters.*

Open Meeting Laws

AB 557 (Hart) – Open meetings: local agencies: teleconferences

- The Ralph M. Brown Act allows meetings via teleconferencing with certain requirements. This bill amends the Act to allow local legislative bodies to use teleconferencing without specific requirements during a declared state of emergency or if measures promoting social distancing are imposed or recommended.
- The legislative body must make specified findings within 45 days after the first teleconferenced meeting and every 45 days thereafter for continued use of teleconferencing.



AB 557 Considerations

- *This bill extends the valuable provisions of AB 361 to help address future emergencies.*
- *Crucially, it adjusts the timeframe for the resolutions passed to renew an agency's temporary transition to emergency remote meetings to 45 days, up from the previous and often unworkable 30 days.*

AB 1458 (Ta) – Common interest developments: association governance: member election

- Amends the Davis-Stirling Common Interest Development Act, which regulates common interest developments. It authorizes an association, in the absence of a quorum, to adjourn proceedings to a date at least 20 days later, with a 20% quorum requirement for a membership meeting. The association must provide general notice of the membership meeting at least 15 days before the election of directors.
- These changes aim to address situations where a quorum is lacking and facilitate the election process in common interest developments.



SB 411 (Portantino) – Open meetings: teleconferences: neighborhood councils.

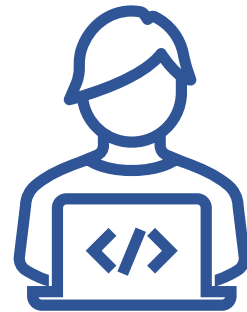
- Until January 1, 2026, this bill authorizes an eligible legislative body (neighborhood council) to use alternate teleconferencing provisions for notice, agenda, and public participation if authorized by city council resolution and approved by a 2/3 vote of the legislative body. "Eligible legislative body" refers to a neighborhood council in a city with a population over 3,000,000.
- The bill mandates publicly accessible physical locations for public participation and requires at least a quorum to participate from locations within the city boundaries. Additionally, it necessitates at least one in-person meeting per year with a quorum present, open to the public within the city boundaries.

SB 411 Considerations

- *While this bill may be a valuable concession to local entities (AB 557 is comparably quite modest), its scope is extremely narrow. Given the definition of “eligible legislative body”, this bill is plainly targeted at Los Angeles.*
- *Los Angeles’s Neighborhood Councils have reported challenges transitioning back to in-person meetings, potentially compromising constituent participation. This bill should help address those challenges.*

SB 544 (Laird) – Bagley-Keene Open Meeting Act: teleconferencing

- Amends the Bagley-Keene Open Meeting Act to provide an alternative set of provisions allowing state bodies to hold meetings by teleconference. It requires at least one member to be physically present at each teleconference location, accessible to the public, and allows a member's remote participation under specific circumstances.
- Mandates disclosure of a member's remote location circumstances, ensuring transparency in remote participation. The changes aim to facilitate teleconferencing while preserving public access and transparency.



Governmental Bodies

AB 1637 (Irwin) – Local government: internet websites and email addresses

- This bill, effective no later than January 1, 2029, requires City and County public agencies maintaining public internet websites to use a “.gov” top-level domain or a “.ca.gov” second-level domain. Local agencies with non-compliant websites must redirect them to a domain using “.gov” or “.ca.gov.”
- Additionally, local agencies maintaining public email addresses must ensure that each email address provided to employees uses a “.gov” or “.ca.gov” domain. The bill imposes these requirements to enhance the security and reliability of public information and services provided by local agencies.



AB 1637 Considerations

- *This bill is about the security and reliability of public information and services provided by local agencies. It might be especially appropriate as we move toward a world in which virtually all public agency information is posted online, including information corresponding to Brown Act requirements. Beyond making it clearer to viewers that a website genuinely corresponds to a public agency, “.gov” and “.ca.gov” domains are also subject to regulation by the Department of Homeland Security and California Department of Technology, respectively. These domains are subject to various security protocols to safeguard their contents and protect visitor privacy.*
- *Still, this bill establishes an onerous requirement for local governments. Revising a website, establishing corresponding e-mails, changing network logins, updating social media, etc., comes at a potentially significant cost, especially in small-to-mid-sized cities and counties who may have insufficient IT staff and will need to contract out to outside vendors. Sacramento County has reported that the transition took 15 full-time employees 14 months to complete.*
- **Note:** *While the bill was amended to limit provisions to City and County agencies, the Author has stated she plans to reintroduce the measure to expand to all local agencies next year.*

Redistricting

AB 764 (Bryan) – Local redistricting

- Revises and recasts existing law related to local redistricting. It imposes uniform requirements on counties, county boards of education, cities, school districts, community college districts, and special districts with elected governing bodies, mandating compliance with specified criteria for adopting district boundaries.
- Local jurisdictions are required to adopt district boundaries following the decision to establish district-based elections and after each federal decennial census.



AB 764 Considerations

- *After the 2020 redistricting process, various organizations sponsored a report (“The Promise of Fair Maps, California’s 2020 Local Redistricting Cycle: Lessons Learned and Future Reform”) that identified a series of ambiguities, loopholes, and deficiencies in the implementation of the Fair Maps Act (AB 849).*
- *The report’s conclusions concerning the Fair Maps Act’s ranked redistricting criteria cast doubt on whether the Act had sufficiently rooted out incumbency protection and pointed to challenges in defining “communities of interest”. Moreover, the Act’s reforms did not apply to educational or special districts, which were left with greater discretion over district boundaries. This bill is aimed at addressing these and other matters.*

AB 764 Considerations (Cont.)

- *This bill makes numerous changes to the requirements of the Fair Maps Act, both large and small. For example, it (1) requires the publication of certain reports, including, with some exceptions, a report concerning racially polarized voting if it exists in the jurisdiction and a report explaining the basis on which the districting body made its decisions; (2) contains more onerous public hearing requirements; and (3) contains new deadlines.*
- *Just as with AB 849, this bill will require public agencies to confront and solve novel issues. Unlike AB 849, however, agencies have many years to learn and strategize about the bill's requirements.*
- *With a uniform redistricting timeline for so many jurisdictions, it may prove challenging to secure the necessary human resources (e.g. consultants) to execute this bill's requirements. Public agencies should move early and fast to make sure they have those resources locked in.*

Litigation Update: *Pico v. Santa Monica*

- CVRA prohibits at-large elections that dilute minority voting power. Two views:

Voting is racially polarized.

OR

RPV + minority group could be majority in a hypothetical voting district.

- Court's middle-ground approach: plaintiff must show RPV + “under some lawful alternative electoral system, the protected class would have the potential, on its own or with the help of crossover voters, to elect its preferred candidate.”
- Court also endorsed other remedies and introduced new questions...

Looking Ahead: Election Chair Leadership

- **Assemblymember Gail Pellerin**

- Elected 2022 (Chair of Assembly Elections, June 2023)
- District 28 (Santa Clara, Santa Cruz Counties)
- Chief elections official in Santa Cruz County 1993-2020
- President of CACEO 2010-2012



- **Senator Steve Glazer**

- Elected in 2014 (terms in 2026)
- Senate District 07 (Alameda and Contra Costa Counties)
- Current Chair (New Leadership Change Pending)



Looking Ahead: Potential Legislation to Watch Out For

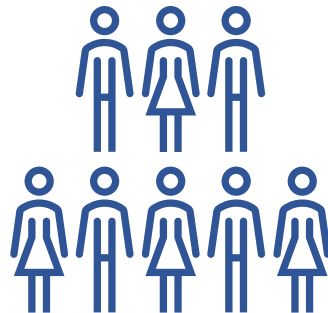
- **Pushback to Pico V. Santa Monica?**
 - Given the Courts ruling, there may be a legislative attempt to roll back any wiggle room granted in the CVRA
- **Open Meetings (Brown Act)**
 - Several local government groups will continue to push for continued remote access
- **Public Records Act**
 - Measures to combat the Government Transparency Act*
- **Statewide (local)Independent Redistricting Commissions**
 - AB 1248 (Bryan) Vetoed Due to cost concerns
 - SB 314 (Ashby) Sacramento County AB 34 (Valencia) Orange County (both signed)
- **Ranked Choice Voting?**
 - AB 1227 (Low) permits Santa Clara County (A charter County) to adopt an ordinance to elect its members by RCV

Appendix

Supplemental Measures Enacted in 2023

AB 34 (Valencia) – Elections: County of Orange Citizens Redistricting Commission

- Establishes the Citizens Redistricting Commission in the County of Orange, charged with adjusting the boundary lines of the Board of Supervisors of the County of Orange. The commission consists of 14 voting members and 2 nonvoting alternate members who meet specified qualifications.
- Commission members are required to attend all public hearings and meetings, with specified procedures for removal in case of neglect of duty, misconduct, inability to discharge duties, or failure to meet qualifications.



AB 507 (Bryan) – Presidential electors

- Updates state law to conform to the requirement that presidential electors meet and vote on the first Tuesday after the second Wednesday in December.
- Additionally, it mandates the Governor to designate an alternative location for the electors to assemble if it is unsafe to meet in the State Capitol due to a proclaimed state of emergency.

AB 1227 (Low) – Elections: County of Santa Clara

- Authorizes the Board of Supervisors of the County of Santa Clara to adopt, and a voter of that county to propose by initiative, an ordinance to elect county officers by ranked choice voting.
- It allows the county to hold a ranked choice voting election at the statewide primary election, the first statewide general election, or a combination thereof, and to use ranked choice voting in special elections to fill vacancies in county offices.

AB 1539 (Berman) – Elections: double voting

- Makes it a misdemeanor for any person to vote or attempt to vote both in an election held in California and in an election held in another state on the same date.
- It does not prohibit a voter from voting in elections held in California and another state if one of the elections is held in a landowner voting district or any other district where residency is not required.



SB 25 (Skinner) – Declaration of candidacy: notary

- Provides an option for candidate seeking state office who will not be in the State of California during the entire nomination period to complete their declaration of candidacy before a notary public of another state within the United States.



SB 77 (Umberg) – Voting: signature verification: notice

- Amends current law related to mail ballots' signature verification.
- Requires county elections officials, upon determining that signatures on identification envelopes do not match or if the envelope lacks a signature, to notify voters by mail, telephone, text message, or email if the official has the contact information on file.
- The notice provides an opportunity for voters to verify or provide their signature.



SB 386 (Newman) – Elections

- Extends by 30 days the period for an elections official using the random sampling method to verify signatures on state initiative or referendum petitions.
- The extension applies to the time for the official to complete their determination of the number of qualified voters. The extension does not apply if it would render a recall election ineligible for consolidation with the next regularly scheduled election.

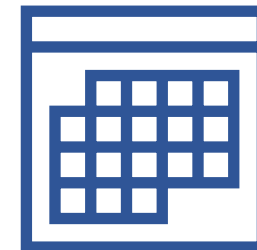


SB 437 (Dodd) – Presidential elections: candidates

- Requires qualified political parties to notify the Secretary of State, on or before the 75th day before a presidential general election, of the names of their nominees for President and Vice President.
- If a party has not held its national convention by that date, it must provide the names of its apparent nominees. The bill aims to enhance the transparency of the candidates presented on the ballot.

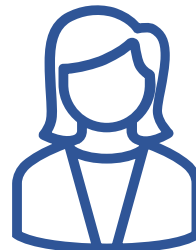
SB 681 (Allen) – Political Reform Act of 1974: amendments

- Modifies the Political Reform Act of 1974, changing the deadline for bills amending the act to be in final form from 12 days to 8 days before passage in each house. However, if the previous form of the bill did not amend the act, the 12-day requirement remains in place.
- This adjustment aims to streamline the legislative process for bills amending the Political Reform Act of 1974.



SB 658 (McGuire) – Nominations: tax return disclosures: candidates for Governor

- Expands current law, which prohibits a candidate for Governor from appearing on the ballot of the direct primary election without filing copies of their income tax returns for the last five years with the Secretary of State.
- The legislation extends these requirements to general elections and recall elections. Candidates must redact certain information from one copy of each submitted return. The redacted versions are made available to the public on the Secretary of State's website within five days of receipt and remain posted until the official canvass is completed.



Thank You!