

**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: April 2, 2015

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations  
Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Assignment No: 15-03-0192

SUBJECT: SB 163 – Vote by Mail Ballots

CLA RECOMMENDATION: Adopt the attached Resolution to include in the City's 2015-2016 State Legislative Program SUPPORT for SB 163 (Hertzberg) which would require counties to send vote by mail ballots to all registered voters, IF AMENDED to include the following provisions: 1) state-mandated reimbursements from the state of California cannot be suspended without suspension of the program itself and relief of local duties associated with the program; 2) state-mandated reimbursements include all costs associated with distribution of vote by mail ballots, including distribution, and processing of returned and re-issued vote by mail ballots; and 3) state-mandated reimbursements associated with this program be expanded to include costs of indirect impacts on other voting methods, such as costs related to anticipated increases in provisional voting.

SUMMARY

On March 2, 2015, the City Clerk submitted a bill response report to the Office of the Chief Legislative Analyst regarding SB 163. Currently pending in the California State Senate is SB 163, which would require counties to send vote by mail ballots to all registered voters. Per the City Clerk, although the City would not be required to distribute vote by mail ballots to all registered voters, there could be direct impacts on City voters if the City's elections are conducted by the County of Los Angeles, which could result in a potential increase in administrative costs. Additionally, the City Clerk reports that distribution of vote by mail ballots to all registered voters could result in an increase in provisional voting, which would require additional staff, training, and funding. Due to the potential financial implications of SB 163, the City Clerk recommended that the City oppose SB 163. However, upon further discussion with the City Clerk, our offices agree that the City should support SB 163, if proper amendments are made to reimburse local jurisdictions for all associated direct and indirect costs, since the intention of the bill is aimed at increasing voter participation, which is a concept that the City supports. The attached Resolution has been prepared and submitted based on the issues raised by the City Clerk pertaining to SB 163.

The attached Resolution states that, on March 3, 2015, the voters of Los Angeles approved two ballot measures which changed the dates of the City's municipal elections to even-numbered years, and this action now allows the City to request that the City's elections be consolidated with the County of Los Angeles administered statewide elections. Further, the subject Resolution indicates that per state law, any election consolidated with a statewide election be subject to the regulations of the California State Election Code. SB 163 (Hertzberg), per the Resolution, would require that the County distribute vote by mail ballots (VBM) to all registered voters, regardless of whether or not a VBM was requested, and that this initiative be considered a state-mandated program. The Resolution states that the concept may increase voter turnout; however, the bill may also have unanticipated costs that would not be

reimbursed to the City. Therefore, the Resolution states that SB 163 should be supported, if several changes are included in the final bill to allow for the reimbursement of all increases in local costs.

### BACKGROUND

On October 22, 2013, the Los Angeles City Council adopted a Resolution (Wesson-Krekorian), which formed the City of Los Angeles Municipal Elections Reform Commission, which was created to provide a review of City law and the City's electoral process, and to provide recommendations on methods to enhance voter participation and further promote civic engagement. On June 5, 2015, the Commission presented several recommendations to the City Council on methods to increase voter participation, including a proposal to change the City's municipal elections to even-numbered years, to coincide with state and federal elections. Subsequently, the City presented the voters of Los Angeles with two ballot measures which would change the City's election dates, as consistent with one of the recommendations of the Municipal Election Reform Commission. On March 3, 2015, the voters approved the ballot measures, officially changing the City's election dates by year 2020, which would allow the City to consolidate, if it so chooses, with the County of Los Angeles administered statewide elections.

Currently, all elections administered by the City of Los Angeles, are subject to the provisions of the Charter and the City Election Code. Effective in 2020, the City of Los Angeles will hold its elections at the same time as statewide elections. Pursuant to California State Election Code section 10418, any election consolidated with a statewide or state special election shall be regulated in accordance with the provisions of law regulating the statewide or special election. If the City consolidates its future elections with the County administered statewide elections or special election, then those elections will be subject to the provisions of State Election Code. Therefore, any proposed amendments to the State Election Code which will impact the City of Los Angeles should be reviewed in order to identify any potential conflicts or problems for the City.

Existing State law requires a request for a vote by mail ballot (VBM) be made in writing to the elections official having jurisdiction over the election. This practice is consistent with City law. On February 4, 2015, Senator Hertzberg introduced SB 163, which would amend the California State Election Code to require county elections officials to issue a VBM to every registered voter in the county for statewide primary, special, and general elections, regardless of whether a VBM was requested. The bill states that recent studies show that registered voters who automatically receive their ballots by mail are more likely to vote. If the Commission on State Mandates determines that these statutory provisions are a state-mandated local program, then the state would be required to reimburse local agencies for certain costs mandated by the state. If this bill passes, elections which the City consolidates with the statewide elections administered by the County, would be subject to this new provision.

The City has recently, and historically, supported measures which could improve voter participation. As studies of other states have shown, practices such as these proposed in SB 163, increase voter participation. However, the City Clerk's office indicates that the bill could have several direct and indirect impacts which could be more costly to local jurisdictions. Currently, if a voter subscribes to a VBM or is a permanent absentee voter, and wishes to vote at a polling place in lieu of doing so by mail, they must surrender their ballot at the polling location. If they are unable to surrender their VBM, they are required to vote provisionally, in order to avoid potential instances of fraud or double voting.

The City Clerk anticipates a substantial increase in provisional voting due to the implementation of SB 163, especially in the first few years of implementation. Increases in provisional voting could also increase voter wait times, and increase costs, including the costs of a robust outreach campaign, additional pollworker trainings, and additional staff/supplies at polling locations to process increased provisional votes and prevent delays. These increases in costs would likely be passed down to the City, as they would not qualify for state reimbursement. Further, there would be a higher amount of undeliverable VBM ballots and re-issued ballots, which would require an increase in staff and work hours. Lastly, the City has encountered issues in the past with state-mandated reimbursements which have resulted in increased costs to the City and County. One instance pertains to AB 110 in 2013, where reimbursements from the state were suspended, yet the City and County continued to sustain costs, which were not reimbursed. The City Clerk estimates a potential increase in costs of 23 percent if the City were running the elections. Costs could be higher since the County staff costs are typically higher than the City's. Those costs could be passed down to the City.

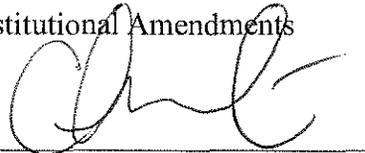
In order to realize the benefits of a potential increase in voter participation as a result of SB 163, it is necessary to include several adjustments to the bill to protect local jurisdictions from increased local costs, such as including reimbursements for all costs from direct and indirect impacts of VBM distribution to all registered voters, and addressing the issue of cost reimbursements in the event that the program is suspended. The Resolution includes support for the bill, if amendments are made to address the aforementioned issues.

DEPARTMENTS NOTIFIED

City Clerk

BILL STATUS

2/4/15	Introduced
2/19/15	Referred to Committee on Elections and Constitutional Amendments



Chris Concepción  
Analyst

Attachments: 1. Resolution  
2. SB 163

## RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, on March 3, 2015, in an effort to improve voter participation in municipal elections, the voters of the City of Los Angeles approved two ballot measures which changed the dates of the City's primary and general elections to June and November of even-numbered years beginning in 2020, so that they are held on the same dates as federal and state elections; and

WHEREAS, by changing the election dates, the City's primary and general elections may be consolidated with the County of Los Angeles administered statewide elections, and per state law, elections consolidated with a statewide election must be held in accordance with provisions of law regulating statewide elections; and

WHEREAS, since consolidated elections are subject to the regulations of the California State Election Code, in lieu of the City's Election Code, it is important to identify state bills which would impact state law, and would thereby impact City consolidated elections; and

WHEREAS, SB 163 (Hertzberg) would require county elections officials to issue a vote by mail ballot to every registered voter in the county for statewide primary, special, and general elections, and the bill would also impose a state-mandated local program, in an effort to increase voter turnout statewide; and

WHEREAS, although SB 163 would require that all registered voters in the county be issued a vote by mail ballot, such action would not preclude voters from exercising their right to vote at their designated precinct polling locations; and

WHEREAS, while the City supports efforts to increase voter turnout such as these, and although some costs are typically reimbursed with state-mandated programs, the local direct and indirect financial impacts of this specific bill could be substantial, unless the bill is amended to cover reimbursements for all anticipated increases in costs;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 State Legislative Program, SUPPORT for SB 163 (Hertzberg) which would require counties to send vote by mail ballots to all registered voters, IF AMENDED to include the following provisions: 1) state-mandated reimbursements from the State of California cannot be suspended without suspension of the program itself and relief of local duties associated with the program; 2) state-mandated reimbursements include all costs associated with distribution of vote by mail ballots, including distribution, and processing of returned and re-issued vote by mail ballots; and 3) state-mandated reimbursements associated with this program be expanded to include costs of indirect impacts on other voting methods, such as costs related to anticipated increases in provisional voting.

**Introduced by Senator Hertzberg**February 4, 2015

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An act to add Section 3000.5 to the Elections Code, relating to elections.

## LEGISLATIVE COUNSEL'S DIGEST

SB 163, as introduced, Hertzberg. Elections: vote by mail ballot.

Existing law requires the vote by mail ballot to be available to any registered voter and requires an application for a vote by mail voter's ballot to be made in writing to the elections official having jurisdiction over the election between certain days before the election.

This bill, notwithstanding any other law, would require county elections officials to issue a vote by mail ballot to every registered voter in the county for statewide primary, special, and general elections. The bill would include findings and declarations related to vote by mail ballots. By requiring county elections officials to issue a vote by mail ballot to every registered voter, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In maintaining a healthy democracy in California, it is
- 4 important to encourage and ensure that the residents of the state
- 5 have the tools needed to participate in every election.
- 6 (b) On average, in California counties 46.2 percent of voters
- 7 receive their ballots by mail.
- 8 (c) Recent studies show that registered voters who automatically
- 9 receive their ballots by mail are more likely to vote.
- 10 (d) Broadening the ability of California residents to engage in
- 11 the democratic process will yield more representative election
- 12 results and will ensure that the voices of more California residents
- 13 are heard.
- 14 SEC. 2. Section 3000.5 is added to the Elections Code, to read:
- 15 3000.5. Notwithstanding any other law, a county elections
- 16 official shall issue a vote by mail ballot to every registered voter
- 17 in the county for statewide primary, special, and general elections.
- 18 The distribution of vote by mail ballots to all registered voters
- 19 shall not prevent registered voters from exercising their right to
- 20 vote at their designated precinct polling locations.
- 21 SEC. 3. If the Commission on State Mandates determines that
- 22 this act contains costs mandated by the state, reimbursement to
- 23 local agencies and school districts for those costs shall be made
- 24 pursuant to Part 7 (commencing with Section 17500) of Division
- 25 4 of Title 2 of the Government Code.