

AB 668 – Voting Modernization Bond Act of 2018

Legislative Documents

This document contains three documents downloaded from the California Legislative Information web page for AB 668:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB668

1. The April 24, 2017 bill analysis prepared for the April 26 hearing of the Assembly Committee on Elections and Redistricting.
2. The May 2 amended bill text that passed out of committee on April 26.
3. The May 8 bill analysis prepared for the May 10 hearing of the Assembly Committee on Appropriations.

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 668 (Gonzalez Fletcher) – As Amended April 6, 2017

AS PROPOSED TO BE AMENDED

SUBJECT: Voting Modernization Bond Act of 2018.

SUMMARY: Places a \$450 million bond act on the June 5, 2018, statewide primary election ballot and authorizes the use of those bond funds for the purchase of specified voting equipment and related technology. Specifically, **this bill:**

- 1) Authorizes the issuance and sale of bonds not to exceed \$450 million to assist counties in the purchase of voting equipment and related technology. Requires bonds issued pursuant to this bill to be repaid within 10 years after being issued.
- 2) Provides that bond fund moneys shall be available to match expenditures by counties at the following ratios:
 - a) If the county conducts elections pursuant to the California Voter's Choice Act (CVCA), a ratio of \$3 of bond fund money for every \$1 of county money; and,
 - b) If the county does not conduct elections pursuant to the CVCA, a ratio of \$2 of bond fund money for every \$1 of county money.
- 3) Provides that bond fund moneys may be used for equipment purchased by a county on or after January 1, 2017, for which the county continues to make payments on the date the bond measure is approved by the voters. Provides that bond funds may be used only for the purchase of the following equipment:
 - a) Voting systems certified by the Secretary of State (SOS) that do not use prescored punch cards;
 - b) Electronic poll books;
 - c) Ballot on demand systems;
 - d) Vote by mail (VBM) ballot drop boxes;
 - e) Remote accessible VBM systems;
 - f) VBM ballot sorting and processing equipment; and,
 - g) Technology to facilitate electronic connection between polling places, vote centers, and the office of the county elections official or the office of the SOS.

- 4) Requires any voting system that is purchased using bond funds, and that does not require a voter to directly mark the ballot, to produce a paper version of the voted ballot or of all the ballots cast on the voting system. Requires the paper version to be retained by elections officials for use during the 1% manual tally of ballots cast or for any other recount, audit, or election contest.
- 5) Provides that the Voting Modernization Finance Committee (Finance Committee) is responsible for authorizing the issuance and sale of bonds authorized by this bill, and provides that the Voting Modernization Board (Modernization Board) is responsible for administering the fund into which bond proceeds are deposited.
- 6) Permits the Legislature to amend provisions of this bill regarding the county match required for bond funds, the purposes for which bond funds may be used, and the makeup and operations of the Modernization Board, by a statute approved by a two-thirds vote in each house of the Legislature if the statute is consistent with and furthers the purposes of this bill.
- 7) Includes related fiscal provisions regarding sales of bonds and implementation of this bill pursuant to the State General Obligation Bond Law.
- 8) Requires the provisions of this bill authorizing the issuance of bonds to be submitted to the voters at the June 5, 2018, statewide direct primary election, and provides that those provisions shall take effect upon approval by the voters.
- 9) Makes corresponding and technical changes.

EXISTING LAW:

- 1) Requires the SOS to adopt regulations governing the use of voting systems, electronic poll books, ballot on demand systems, and remote accessible VBM systems.
- 2) Prohibits a jurisdiction from using a voting system, electronic poll book, ballot on demand system, or remote accessible VBM system in an election unless it has been previously approved by the SOS, as specified.
- 3) Requires the SOS to adopt regulations establishing guidelines based on best practices for security measures for the use of VBM ballot drop boxes, as specified.
- 4) Establishes the Voting Modernization Bond Act of 2002 (VMBA), which authorized the issuance and sale of bonds not to exceed \$200 million, for the purpose of assisting counties in the purchase of updated voting systems.
- 5) Creates the Finance Committee, consisting of the Controller, the Director of Finance, and the Treasurer, and makes it responsible for authorizing the issuance and sale of bonds authorized by the VMBA.
- 6) Creates the Modernization Board, consisting of three members selected by the Governor and two members selected by the SOS, and makes it responsible for administering the fund that contains the proceeds of the bonds issued pursuant to the VMBA.

- 7) Permits counties, pursuant to the CVCA, to conduct elections in which every voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Amendments:** After the committee's deadline for pre-committee author's amendments, the author proposed amendments to allow bond funds to be used for the purchase of VBM ballot sorting and processing equipment. This analysis reflects those proposed author's amendments.

- 2) **Purpose of the Bill:** According to the author:

California's voting machines are becoming outdated and nearing the end of their useful "lives".

Many voting machines are a decade old or even more, and need to be modernized in order to ensure our elections continue to be reliable. As voting systems age, the risks of failures or crashes increase. It is essential that investments in upgrading technology are made now, rather than waiting for our machinery to fail and possibly jeopardize electoral outcomes.

In addition to aging equipment and software, counties looking to transition to the vote center model of elections allowed under SB 450 (Allen 2016) will be able to save money in the long run but may need investments now in new systems for this new model of elections.

After the 2000 presidential election's controversies over equipment malfunctions in Florida, the federal government passed the Help America Vote Act [HAVA] to help fund system modernization throughout the states. California counties received about \$195 million in HAVA funds, and also passed a \$200 million bond to further help counties pay for new equipment.

Now, it seems unlikely that California's counties will see similar help from the federal government again. It is time for the state to step up on behalf of fair, reliable, and secure elections.

- 3) **State of Voting Equipment in California:** In the aftermath of the 2000 Presidential election, California and the federal government enacted legislation designed to modernize elections, including providing significant new funding to replace voting systems. In California, AB 56 (Shelley), Chapter 902, Statutes of 2001, established the VMBA, which authorized the sale of \$200 million in bonds for counties to use for the purchase of updated voting systems. At the federal level, HAVA established new standards for federal elections and provided funding to states to help implement its provisions. Of the nearly \$400 million in federal funds that California received as a result of HAVA, \$195 million was allocated to counties to help cover the costs of voting system upgrades.

In addition to providing funding for voting system upgrades, policy changes made at the state and federal level meant that many counties had to purchase new voting equipment, or to make modifications to their existing voting systems. At the state level, the SOS decertified two punch card voting systems due to concerns that such systems resulted in high levels of invalid votes. At the time they were decertified, those two systems were being used in nine California counties, with more than half of California voters residing in those counties. Additionally, the state and federal government both enacted new accessibility requirements for voting systems.

In order to comply with these new requirements, many counties purchased new electronic voting systems using the state and federal funding available for voting system upgrades. In 2007, however, then-Secretary of State Debra Bowen conducted a "top-to-bottom" review of many of the voting systems certified for use in California. According to Secretary Bowen, the review was "designed to restore the public's confidence in the integrity of the electoral process and to ensure that California voters cast their ballots on machines that are secure, accurate, reliable, and accessible." Secretary Bowen reported that the review uncovered a "number of security vulnerabilities in all the voting systems...tested."

Following the review, the SOS decertified and conditionally recertified electronic voting systems that were being used in numerous California counties. As a result, many of the affected counties were unable to use their electronic voting systems for general polling place voting, and replaced them with paper-based optical scan voting systems. A "Frequently Asked Questions" document that was released by the SOS shortly after the completion of the top-to-bottom review noted that the conditional recertification of voting systems had significantly restricted the use of polling place voting systems used by 21 counties. As a result, the document noted that "[e]xcept for the single [voting unit] allowed per polling place [in order to comply with state and federal accessibility requirements], these counties will have to adopt a new Election Day voting system."

Notwithstanding the fact that many counties were forced to acquire new voting systems after the 2007 top-to-bottom review, according to information compiled by the office of the SOS, the majority of California counties are using at least some voting equipment purchased in 2006 or earlier, with a few counties using equipment that is even older (according to this information, Los Angeles County still uses some voting equipment that was purchased in 1968). Most of the VMBA and HAVA funding for voting system replacement has been spent, though about \$96 million in funding remains between those two sources. Of the remaining funding available, however, nearly three-quarters is funding that remains in allocations set aside for Los Angeles County (approximately \$56 million remaining) and San Diego County (approximately \$15 million remaining). By contrast, 21 counties have exhausted all of the funding allocated to them under the VMBA and HAVA, while another 13 counties have less than 10% of their total allocated funding remaining.

Last month, the Legislative Analyst's Office (LAO) released a report in connection with the 2017-2018 budget process titled *Considering the State's Role in Elections*. In that report, the LAO noted that county governments are responsible for administering most local, state, and federal elections in California. While counties can bill other local governments for their

share of the costs of administering elections (with some exceptions), the state and federal governments generally do not pay the proportional share of costs for administering state and federal elections. The report noted that while the state and federal government have occasionally provided one-time funding for elections costs (including funding for voting equipment through the VMBA and HAVA), the state has not provided regular ongoing funding for election administration. One of the recommendations in the LAO report was that the Legislature should consider one-time support to replace counties' voting systems.

- 4) **Slow Development of New Voting Technology:** The use of aging voting equipment is not unique to California. In 2014, the bipartisan Presidential Commission on Election Administration (Commission), which was established by President Obama after the 2012 Presidential election, warned of an "impending crisis in voting technology." The Commission, which was co-chaired by the former General Counsel to President Obama's 2012 re-election campaign and by the former National Counsel to Mitt Romney's 2012 campaign for President, noted that a large portion of the voting systems that were purchased using HAVA funds are reaching the end of their usable lives. The Commission's report further noted that for a number of reasons, including a federal voting system standard-setting and certification process that the Commission described as "unworkable," the voting system options available did not meet the needs of election administrators and did not "employ the sorts of advances that have become commonplace in consumer products and other industries."

In fact, concerns about the federal voting system review process prompted California to change its process for reviewing and approving voting systems for use in the state. Until 2014, California's voting system review process was designed to augment the federal voting system review and approval process. Prior to undergoing state review, electronic voting systems were required to be approved at the federal level. In 2013, however, due in part to frustration with the federal voting system certification process, the Legislature approved and the Governor signed SB 360 (Padilla), Chapter 602, Statutes of 2013, which removed the requirement that electronic voting systems had to be approved at the federal level before undergoing state review, and instead required voting systems to undergo more extensive and thorough testing and review by the SOS prior to being used in the state.

SB 360 also was designed to facilitate a project that was then underway in Los Angeles County —the Voting Systems Assessment Project (VSAP). Because of Los Angeles County's size, diversity, and complexity, the County found that the commercial off-the-shelf voting systems available for purchase did not meet the county's needs. As a result, the county established VSAP to identify and implement a new voting system by first defining the kind of voting system it wanted, and then being directly involved in the system's development. Accordingly, SB 360 established a voting system review and approval process that envisioned a situation where a local jurisdiction might be involved in the research and development of a new voting system, rather than having a review and approval process designed around the assumption that all voting systems would be developed by private vendors that would then sell or lease their products to local jurisdictions. In addition to the VSAP in Los Angeles County, the City and County of San Francisco currently is considering developing its own voting system.

- 5) **California Voter's Choice Act and Voting Equipment:** In addition to the fact that many counties are using voting equipment that is reaching the end of its useful life, recent changes to state law are likely to change the types of voting equipment that California counties will use to conduct elections in the future. SB 450 (Allen), Chapter 832, Statutes of 2016, enacted the CVCA, which permits counties to conduct elections in which all voters are mailed ballots, and voters have the opportunity to vote on those ballots or to vote in person at a vote center for a period of 10 days leading up to election day. Fourteen specified counties are permitted to conduct elections under this system in 2018, while the remaining counties may use this system beginning in 2020.

Because the CVCA generally requires counties that conduct elections pursuant to its provisions to mail ballots to all registered voters, the CVCA likely will increase the use of VBM ballots. That, in turn, may increase counties' needs for VBM ballot processing equipment. The CVCA also requires counties to establish VBM ballot drop-off locations; many counties are likely to comply with this requirement by using VBM ballot drop boxes, which those counties may need to purchase. Additionally, counties that conduct elections under the CVCA are required to provide VBM ballots in an accessible format, which may require counties to purchase or otherwise procure remote accessible VBM systems.

Furthermore, the CVCA eliminates the requirement for counties to establish polling places for elections, but instead requires counties to establish vote centers. Vote centers are polling locations at which any registered voter in a county can cast a regular (i.e., non-provisional) ballot, regardless of the voter's precinct. Because the number of required vote centers is less than the number of polling places, the number of voting machines that a county has to purchase to accommodate in-person voting may be reduced under the CVCA. On the other hand, because voters have the option of casting a ballot at any vote center in the county, vote centers need to have a system that can provide any eligible voter in the county with the appropriate ballot. While smaller counties that have fewer ballot styles may be able to accommodate that need using pre-printed paper ballots, vote centers in larger jurisdictions likely will feature electronic voting systems that are pre-loaded with all the ballot types in the county, or ballot-on-demand printers that can produce the appropriate paper ballots as needed.

Finally, in order to verify the registration of voters, determine the correct ballot type for each voter, and ensure that a voter has not already cast a ballot, vote centers must have a mechanism to verify voter registration information. In addition, vote centers are required to offer same day voter registration for voters in the jurisdiction. In most jurisdictions, these requirements are likely to be met through the use of electronic poll books that can communicate with county and state election systems in real-time. As a result, in addition to purchasing electronic poll books, elections officials may need to purchase or lease equipment to facilitate electronic connectivity between vote centers and elections officials' offices.

This bill includes an incentive for counties to conduct elections under the CVCA by providing \$3 in state funds for every \$1 in local funds for counties that conduct elections using the CVCA. Counties that do not use the CVCA would still be eligible for state funding for voting equipment under this bill, but the state's match of local spending would be lower: \$2 in state funds for every \$1 in local funds.

- 6) **Money for Voting System Development & Potential Amendments:** As detailed above, at least two California counties are developing or considering developing their own voting systems, due in part to concerns that the commercially available voting systems that have been developed by private vendors do not adequately address those counties' voting system needs. In recognition of this situation, SB 360 sought to allow counties to use VMBA funding for research and development of voting systems. After the passage of SB 360, the Modernization Board voted to approve \$11.5 million in VMBA funds for Los Angeles County for costs associated with research and development of a new voting system. A lawsuit was filed challenging that approval, however, in which the plaintiffs alleged that the provisions of SB 360 that sought to permit the use of VMBA funds for research and development of voting systems were invalid. After the lawsuit was filed, the Modernization Board revoked its approval of VMBA funds for Los Angeles County's costs associated with the research and development of a new voting system, and the lawsuit was settled.

The language of this bill, which mirrors the original language of the VMBA, does not expressly permit funding made available by this bill to be used for voting system research and development. In light of the fact that multiple California counties have sought to develop their own voting systems due in part to a lack of adequate commercially available voting systems, and in light of the fact that the Legislature previously approved SB 360 in an attempt to allow state voting modernization funds to be used for voting system research and development, committee staff recommends that the author and the committee consider amending this bill to expressly permit the bond funds made available under this bill to be used for research and development of new voting systems, subject to the general conditions and rules established by SB 360. Additionally, to reflect the fact that counties increasingly have chosen to lease voting equipment, rather than purchase it outright, committee staff recommends that the author and the committee consider amending this bill to allow equipment to be either purchased or leased using bond funds.

- 7) **Secretary of State Equipment Approvals and Suggested Amendments:** As detailed above, existing law prohibits jurisdictions from using a voting system, electronic poll book, ballot on demand system, or remote accessible VBM system in an election in California unless it has been previously approved by the SOS. Additionally, existing law requires the SOS to adopt regulations establishing guidelines based on best practices for security measures for the use of VBM ballot drop boxes, though local jurisdictions that use VBM ballot drop boxes are not explicitly required to comply with those regulations.

When the state previously authorized the use of bond funds for voting system upgrades, it required that any voting system purchased using bond funds had to be certified by the SOS for use in state elections. Committee staff recommends that this bill be amended to similarly provide that bond funds will be available only for electronic poll books, ballot on demand systems, and remote accessible VBM systems that have been approved for use in California by the SOS. Additionally, committee staff recommends that this bill be amended to require any VBM ballot drop boxes that are procured using the bond funds authorized by this bill to comply with the regulations adopted by the SOS detailing the best practices and security measures for those drop boxes. Finally, to reflect changes made to the voting system certification process as part of SB 360, committee staff recommends that this bill be amended

to permit the bond funds authorized by this bill to be used for voting systems that are either certified by the SOS, *or* that have been conditionally approved by the SOS.

- 8) **Technical Amendments:** Committee staff recommends the following technical amendments to this bill:

On page 5, line 5, after "mail" insert "ballot"

On page 5, line 16, strike out "recount or other" and insert "tally described in Section 15360, or any"

- 9) **Amendments Requested:** The San Francisco Elections Commission, which does not have a formal position on this bill, has requested amendments to do the following:

- a) Match costs associated with the development and certification of open source voting systems at a ratio of \$4 of state bond funds for every \$1 in local funds;
- b) Set aside \$2 million of the bond funds to cover the cost of certifying open source voting systems; and,
- c) Cover not only the purchase, but also the leasing of voting systems.

- 10) **Arguments in Support:** In support of this bill, the California State Association of Counties writes:

Elections administration is a basic and important duty assigned to counties on behalf of the state for candidate contests and policy decisions at all levels of government, from the smallest school district to the national stage. While counties can recover direct costs for conducting elections from local agencies this does not contribute to their overall voting system needs. The last major investment in voting systems was in 2002... Most California counties used their funding to purchase new voting equipment prior to the 2006 election cycle. However, most systems were based on technology of the 1990's and still today rely on rapidly aging equipment and out-of-date technology.

Earlier this year, a report by the Legislative Analyst's Office examined voting administration and offered that the state has a clear interest in secure, timely, and uniform elections. They noted that while the state reaps regular benefits from county elections administration, it only sporadically provides funding to counties for election activities. We have every confidence that counties will continue to faithfully and expertly administer elections on behalf of the state to the best of their ability. However, we strongly believe a one-time investment now is critical to ensuring successful outcomes for all who are involved, including elections officials, state and local agencies, and the voters of California.

- 11) **Arguments in Opposition:** Six individuals submitted letters of opposition to this bill, all arguing that the bill should be amended to exclude funding for voting systems that do not use

open source software. Five of those letters included text that is substantially similar to the following:

It should be noted that although [AB 668] does not preclude open source (coined "non-proprietary") voting system funding, the fact the wording does not plainly state funding for the development, certification and deployment of specifically GPLv3 open source election systems raises flags and triggers alarms. The language should specifically INCLUDE open source voting systems, and exclude "secret software" voting systems. The people of California, as well as the people of the United States and the rest of the world, do not want corporations controlling the vote counting process.

Recent history until today shows an obvious resistance by government to open source as proprietary, vendors, lobbyists and interests fight for protection and retention of market share. With the current status of Federal investigative conclusion regarding foreign interference with United States elections, these efforts are now in direct conflict with national security. Proprietary code, whether disclosed or not, has no place in appropriately secure modern elections.

To state fund the current vendors, with criminal backgrounds and documented conduct violating law and ethic, to enable further deployment of voting systems concluded insecure by government study, is problematic as setting inappropriate precedent for national security. Other [states follow] California, and the bill in its current form is a nod toward security deficient, over-priced voting systems. The vendors are knowledgeable regarding their current "lock-in" of the market, and are opportunistically price-gauging. This bill caters to that scheme.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Alex Padilla (sponsor)
California Association of Clerks and Election Officials
California League of United Latin American Citizens
California Nurses Association / National Nurses United
California Professional Firefighters
California State Association of Counties
Courage Campaign
Disability Rights California
Madera County Board of Supervisors
Madera County Clerk-Recorder & Registrar of Voters
Monterey County
National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund
Rock the Vote
Santa Barbara County Registrar of Voters
Santa Cruz County Clerk
Shasta County Clerk / Registrar of Voters
Urban Counties of California
Voto Latino

Opposition

Howard Jarvis Taxpayers Association
Six Individuals

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AMENDED IN ASSEMBLY MAY 2, 2017

AMENDED IN ASSEMBLY APRIL 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 668

Introduced by Assembly Member Gonzalez Fletcher

February 14, 2017

An act to amend Sections 19253 and 19256 of, and to add Chapter 5 (commencing with Section 19400) to Division 19 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Gonzalez Fletcher. Voting Modernization Bond Act of 2018.

Existing law, the Voting Modernization Bond Act of 2002, authorizes the Voting Modernization Finance Committee to issue and sell bonds in the amount of \$200,000,000, as specified. Existing law authorizes a county to apply to the Voting Modernization Board for money from the proceeds of the sale of bonds (1) to pay for or purchase new voting systems that are certified or conditionally approved by the Secretary of State, (2) to research and develop new voting systems, or (3) to manufacture the minimum number of voting system units reasonably necessary to test and seek certification or conditional approval of the voting system, or test and demonstrate the capabilities of a voting system in a pilot program.

This bill would enact the Voting Modernization Bond Act of 2018 which, if approved, would authorize the issuance and sale of bonds in the amount of \$450,000,000, as specified, ~~for purposes of assisting counties in the purchase of specified voting equipment and technology.~~

similar purposes. This bill would authorize the Voting Modernization Finance Committee and the Voting Modernization Board to administer the Voting Modernization Bond Act of 2018.

This bill would provide for submission of the act to the voters at the June 5, 2018, statewide direct primary election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 19253 of the Elections Code is amended
2 to read:

3 19253. (a) The Voting Modernization Finance Committee is
4 hereby established for the purpose of authorizing the issuance and
5 sale, pursuant to the State General Obligation Bond Law, of the
6 bonds authorized by this article and Chapter 5.

7 (b) The committee consists of the Controller, the Director of
8 Finance, and the Treasurer, or their designated representatives, all
9 of whom shall serve without compensation, and a majority of
10 whom shall constitute a quorum. The Treasurer shall serve as
11 chairperson of the committee. A majority of the committee may
12 act for the committee.

13 (c) For purposes of this article, the Voting Modernization
14 Finance Committee is “the committee” as that term is used in the
15 State General Obligation Bond Law.

16 SEC. 2. Section 19256 of the Elections Code is amended to
17 read:

18 19256. The Voting Modernization Board is hereby established
19 and designated the “board” for purposes of the State General
20 Obligation Bond Law, and for purposes of administering the Voting
21 Modernization Fund and the Voting Modernization Fund of 2018.
22 The board consists of five members, three selected by the Governor
23 and two selected by the Secretary of State. The board shall have
24 the authority to reject any application for fund money it deems
25 inappropriate, excessive, or that does not comply with the intent
26 of this article or Chapter 5. A county whose application is rejected
27 shall be allowed to submit an amended application.

28 SEC. 3. Chapter 5 (commencing with Section 19400) is added
29 to Division 19 of the Elections Code, to read:

1 CHAPTER 5. VOTING MODERNIZATION BOND ACT OF 2018

2
3 19400. This chapter shall be known and may be cited as the
4 Voting Modernization Bond Act of 2018.

5 19401. The State General Obligation Bond Law (Chapter 4
6 (commencing with Section 16720) of Part 3 of Division 4 of Title
7 2 of the Government Code), except as otherwise provided herein,
8 is adopted for the purpose of the issuance, sale, and repayment of,
9 and otherwise providing with respect to, the bonds authorized to
10 be issued by this chapter, and the provisions of that law are
11 included in this chapter as though set out in full.

12 19402. For purposes of this chapter, the following definitions
13 apply:

14 (a) “Ballot on demand system” means a ballot manufacturing
15 system, as defined in Section 303.4, that is subject to Sections
16 13004 and 13004.5.

17 (b) “Board” means the Voting Modernization Board, established
18 pursuant to Section 19256.

19 (c) “Bond” means a state general obligation bond issued
20 pursuant to this chapter adopting the provisions of the State General
21 Obligation Bond Law.

22 (d) “Bond act” means this chapter authorizing the issuance of
23 state general obligation bonds and adopting the State General
24 Obligation Bond Law by reference.

25 (e) “Committee” means the Voting Modernization Finance
26 Committee, established pursuant to Section 19253.

27 (f) “Electronic poll book” means an electronic list of registered
28 voters that may be transported to the polling location or vote center
29 pursuant to Section 2550.

30 (g) “Fund” means the Voting Modernization Fund of 2018,
31 established pursuant to Section 19403.

32 (h) “Remote accessible vote by mail system” means a system,
33 as defined in Section 303.3, that is certified pursuant to Chapter
34 3.5 (commencing with Section 19280) of Division 19.

35 (i) “Vote by mail ballot drop box” means a secure receptacle
36 established by a county or city and county elections official
37 whereby a voted vote by mail ballot may be returned to the
38 elections official from whom it was obtained pursuant to Section
39 3025.

1 (j) “Voting system” means any voting machine, voting device,
 2 or vote tabulating device that does not use prescored punch card
 3 ballots.

4 19403. (a) The committee may create a debt or debts, liability
 5 or liabilities, of the State of California, in the aggregate amount
 6 of not more than four hundred fifty million dollars (\$450,000,000),
 7 exclusive of refunding bonds, in the manner provided herein for
 8 the purpose of creating a fund to assist counties in ~~the purchase of~~
 9 ~~items~~ *paying for an expense* listed in subdivision (d).

10 (b) The proceeds of bonds issued and sold pursuant to this
 11 chapter shall be deposited in the Voting Modernization Fund of
 12 2018, which is hereby established.

13 (c) A county is eligible to apply to the board for fund money if
 14 it meets both of the following requirements:

15 (1) After January 1, 2017, the county has ~~purchased an item~~
 16 *agreed to pay for an expense* listed in subdivision (d) for which it
 17 continues to make payments on the date that this chapter becomes
 18 effective.

19 (2) The county matches fund moneys at one of the following
 20 ratios:

21 (A) If the county conducts an election pursuant to Section 4005
 22 or 4007, one dollar (\$1) of county moneys for every three dollars
 23 (\$3) of fund moneys.

24 (B) If the county does not conduct an election pursuant to
 25 Section 4005 or 4007, one dollar (\$1) of county moneys for every
 26 two dollars (\$2) of fund moneys.

27 ~~Fund moneys shall only be used~~ *(1) A county may use fund*
 28 *moneys to purchase or lease the following:*

29 ~~(1)~~

30 (A) Voting systems certified *or conditionally approved* by the
 31 Secretary of State that do not use prescored punch card ballots.

32 ~~(2)~~

33 (B) Electronic poll ~~books~~. *books certified by the Secretary of*
 34 *State.*

35 ~~(3)~~

36 (C) Ballot on demand ~~systems~~. *systems certified by the Secretary*
 37 *of State.*

38 ~~(4)~~

1 (D) Vote by mail ~~ballot drop boxes~~; boxes that comply with any
2 relevant regulations promulgated by the Secretary of State pursuant
3 to subdivision (b) of Section 3025.

4 ~~(5)~~

5 (E) Remote accessible vote by mail ~~systems~~; systems certified
6 or conditionally approved by the Secretary of State.

7 ~~(6)~~

8 (F) Technology to facilitate electronic connection between
9 polling places, vote centers, and the office of the county elections
10 official or the Secretary of State's office.

11 (G) Vote by mail ballot sorting and processing equipment.

12 (2) A county may use fund moneys to contract and pay for the
13 following:

14 (A) Research and development of a new voting system that has
15 not been certified or conditionally approved by the Secretary of
16 State. A voting system developed pursuant to this subparagraph
17 shall use only nonproprietary software and firmware with disclosed
18 source code, except that it may use unmodified commercial
19 off-the-shelf software and firmware, as defined in paragraph (1)
20 of subdivision (a) of Section 19209.

21 (B) Manufacture of the minimum number of voting system units
22 reasonably necessary for either of the following purposes:

23 (i) Testing and seeking certification or conditional approval for
24 the voting system pursuant to Sections 19210 to 19214, inclusive.

25 (ii) Testing and demonstrating the capabilities of the voting
26 system in a pilot program pursuant to paragraph (2) of subdivision
27 (b) and subdivision (c) of Section 19209.

28 (e) Any voting system purchased or leased using bond funds
29 that does not require a voter to directly mark on the ballot must
30 produce, at the time the voter votes his or her ballot or at the time
31 the polls are closed, a paper version or representation of the voted
32 ballot or of all the ballots cast on a unit of the voting system. The
33 paper version shall not be provided to the voter but shall be retained
34 by elections officials for use during the 1 percent manual ~~recount~~
35 ~~or other~~ tally described in Section 15360, or any recount, audit,
36 or contest.

37 19404. The Legislature may amend subdivisions (c) and (d)
38 of Section 19403 and Section 19256 by a statute, passed in each
39 house of the Legislature by rollcall vote entered in the respective
40 journals, by not less than two-thirds of the membership in each

1 house concurring, if the statute is consistent with, and furthers the
2 purposes of, this chapter.

3 19405. (a) All bonds authorized by this chapter, when duly
4 sold and delivered as provided herein, constitute valid and legally
5 binding general obligations of the State of California, and the full
6 faith and credit of the state is hereby pledged for the punctual
7 payment of both principal and interest thereof. The bonds issued
8 pursuant to this chapter shall be repaid within 10 years from the
9 date they are issued.

10 (b) There shall be collected annually, in the same manner and
11 at the same time as other state revenue is collected, a sum of
12 money, in addition to the ordinary revenues of the state, sufficient
13 to pay the principal of, and interest on, the bonds as provided
14 herein. All officers required by law to perform any duty in regard
15 to the collection of state revenues shall collect this additional sum.

16 (c) On the dates on which funds are remitted pursuant to Section
17 16676 of the Government Code for the payment of the then
18 maturing principal of, and interest on, the bonds in each fiscal
19 year, there shall be returned to the General Fund all of the money
20 in the fund, not in excess of the principal of, and interest on, any
21 bonds then due and payable. If the money so returned on the
22 remittance dates is less than the principal and interest then due and
23 payable, the balance remaining unpaid shall be returned to the
24 General Fund out of the fund as soon as it shall become available,
25 together with interest thereon from the dates of maturity until
26 returned, at the same rate of interest as borne by the bonds,
27 compounded semiannually. This subdivision does not grant any
28 lien on the fund or the moneys therein to holders of any bonds
29 issued under this chapter. However, this subdivision does not apply
30 in the case of any debt service that is payable from the proceeds
31 of any refunding bonds. For purposes of this subdivision, "debt
32 service" means the principal, whether due at maturity, by
33 redemption, or acceleration, premium, if any, or interest payable
34 on any date to any series of bonds.

35 19406. Notwithstanding Section 13340 of the Government
36 Code, there is hereby continuously appropriated from the General
37 Fund, for purposes of this chapter, a sum of money that will equal
38 the sum annually necessary to pay the principal of, and the interest
39 on, the bonds issued and sold as provided in this chapter, as that
40 principal and interest become due and payable.

1 19407. Upon request of the board, supported by a statement
2 of its plans and projects approved by the Governor, the committee
3 shall determine whether to issue any bonds authorized under this
4 chapter in order to carry out the board’s plans and projects and, if
5 so, the amount of bonds to be issued and sold. Successive issues
6 of bonds may be authorized and sold to carry out these plans and
7 projects progressively, and it is not necessary that all of the bonds
8 be issued or sold at any one time.

9 19408. (a) The committee may authorize the Treasurer to sell
10 all or any part of the bonds authorized by this chapter at the time
11 or times established by the Treasurer.

12 (b) Whenever the committee deems it necessary for an effective
13 sale of the bonds, the committee may authorize the Treasurer to
14 sell any issue of bonds at less than their par value, notwithstanding
15 Section 16754 of the Government Code. However, the discount
16 on the bonds shall not exceed 3 percent of the par value thereof.

17 19409. Out of the first money realized from the sale of bonds
18 as provided by this chapter, there shall be redeposited in the
19 General Obligation Bond Expense Revolving Fund, established
20 by Section 16724.5 of the Government Code, the amount of all
21 expenditures made for purposes specified in that section, and this
22 money may be used for the same purpose and repaid in the same
23 manner whenever additional bond sales are made.

24 19410. Any bonds issued and sold pursuant to this chapter may
25 be refunded in accordance with Article 6 (commencing with
26 Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of
27 the Government Code. The approval of the voters for the issuance
28 of bonds under this chapter includes approval for the issuance of
29 bonds issued to refund bonds originally issued or any previously
30 issued refunding bonds.

31 19411. Notwithstanding any provision of the bond act, if the
32 Treasurer sells bonds under this chapter for which bond counsel
33 has issued an opinion to the effect that the interest on the bonds is
34 excludable from gross income for purposes of federal income tax,
35 subject to any conditions that may be designated, the Treasurer
36 may establish separate accounts for the investment of bond
37 proceeds and for the earnings on those proceeds, and may use those
38 proceeds or earnings to pay any rebate, penalty, or other payment
39 required by federal law or take any other action with respect to the
40 investment and use of bond proceeds required or permitted under

1 federal law necessary to maintain the tax-exempt status of the
2 bonds or to obtain any other advantage under federal law on behalf
3 of the funds of this state.

4 19412. The Legislature hereby finds and declares that,
5 inasmuch as the proceeds from the sale of bonds authorized by
6 this chapter are not “proceeds of taxes” as that term is used in
7 Article XIII B of the California Constitution, the disbursement of
8 these proceeds is not subject to the limitations imposed by Article
9 XIII B.

10 SEC. 4. Section 3 of this act shall take effect upon the approval
11 by the people of the Voting Modernization Bond Act of 2018,
12 submitted to the voters pursuant to Section 5 of this act.

13 SEC. 5. Notwithstanding Section 9040 of the Elections Code,
14 a ballot measure that sets forth the Voting Modernization Bond
15 Act of 2018, as set forth in Section 3 of this act, shall be submitted
16 to the voters at the June 5, 2018, statewide direct primary election.

Date of Hearing: May 10, 2017

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez Fletcher, Chair
AB 668 (Gonzalez Fletcher) – As Amended May 2, 2017

Policy Committee: Elections and Redistricting Vote: 5 - 1

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill places a \$450 million bond act on the June 5, 2018, statewide primary election ballot and, upon voter approval, authorizes the use of those bond funds to match county funds for the purchase of specified voting equipment and related technology. These bonds are required to be repaid within 10 years of the date they are issued.

FISCAL EFFECT:

- 1) GF debt service costs in the tens of millions of dollars annually if voters approve the bond act, depending on the timing of when bonds are issued and interest rates at that time. For example, assuming \$100 million of the bonds are sold the first year, and the remaining \$350 million are sold at an even rate over the following 10 years, at a rate of 5 percent interest, the repayment of the bonds would cost about \$13 million in the first year and grow annually until reaching a maximum of almost \$55 million annually in ten years. The debt service costs would then decline annually thereafter for the next ten years until the bonds are fully repaid.
- 2) One-time GF costs of several hundred thousands of dollars for printing and mailing costs to place the measure on the ballot on June 5, 2018. For example, at a cost of \$69,000 per page in the voter guide, assuming a total of six pages, the cost would be \$414,000 to place this measure on the ballot. The actual costs would depend on the length of the title and summary, analysis by the Legislative Analyst's Office, proponent and opponent arguments, and text of the proposal.

COMMENTS:

- 1) **Background.** After the 2000 Presidential election, California and the federal government enacted legislation designed to modernize elections, including providing significant new funding to replace voting systems. In California, AB 56 (Shelley), Chapter 902, Statutes of 2001, authorized the sale of \$200 million in bonds for counties to use for the purchase of updated voting systems. In addition, the state received federal funds to replace voting systems.
- 2) **Purpose.** According to the author, "Many voting machines are a decade old or even more, and need to be modernized in order to ensure our elections continue to be reliable. As voting systems age, the risks of failures or crashes increase. It is essential that investments in upgrading technology are made now, rather than waiting for our machinery to fail and possibly jeopardize electoral outcomes." The author also states, "In addition to aging equipment and software, counties looking to transition to the vote center model of elections

allowed under SB 450 (Allen 2016) will be able to save money in the long run but may need investments now in new systems for this new model of elections.”

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