

October 14, 2014

FROM: Chris Jerdonek, Vice President
TO: Elections Commission

SUBJECT: Two Documents for Agenda Item #8 -- Notifying Voters (10 pages)

I am submitting two documents (see attached) for agenda item #8 of the October 15, 2014 Elections Commission meeting. Item #8 is "related to notifying voters after elections in which their vote-by-mail ballot was rejected."

The two documents are as follows:

- 1) A sample of the letter the Department currently sends to vote-by-mail voters if their signature does not match (three pages).
- 2) The fifth and final section of a recent report issued by the California Voter Foundation called, "Improving California's Vote-by-Mail Process: A Three-County Study" (August 19, 2014). The section is called, "Section V: Recommendations for Improving the Vote-by-Mail Process and Topics for Further Study" (six pages). The full report can be found here: <http://www.calvoter.org/issues/votereng/votebymail/study/findings.html>

Thank you.



June 12, 2014

Dear Voter:

We have received your vote-by-mail ballot.

As required by law, before counting vote-by-mail ballots, the Department of Elections reviews the voter signature on each return envelope and compares it with the signature on the voter's registration record. It appears that your signature may have changed, or the image of your signature in our records is unclear.

To update your voter registration record, including your signature, please complete, sign, and mail the enclosed Voter Registration Form. No postage is required. Once your completed form is received and processed, the Department of Elections will send confirmation of your voter registration, generally within two weeks.

If you do not return a completed Voter Registration Form, you will still be registered to vote. However, we will be unable to count your future vote-by-mail ballots if we cannot verify that the signature on the return envelope compares to the signature on your voter registration record.

If you have any questions, please contact us.

Sincerely,

San Francisco Department of Elections

親愛的選民：

我們已收到您的郵寄選票。

根據法律規定，計算郵寄選票之前，選務處將審閱每個郵寄信封的選民簽名，並與選民登記記錄的簽名進行比較。從表面上顯示，您的簽名可能已有更改，或您在我們的記錄裏的簽名顯得不清楚。

若要更新您選民登記記錄，請填妥，簽名和遞交此表格，無須貼郵票。當我們收到您已填妥的表格並處理後，選務處會在兩星期內寄出確認通知。

如果不交回已填妥的選民登記表格，您仍會被登記為選民。但如果我們無法驗證回郵信封上的簽名與記錄上的相符，我們將無法計算您未來的郵寄選票。

若有任何疑問，請與我們聯絡。

誠摯，
三藩市選務處

Estimado Elector:

Hemos recibido su boleta de voto por correo.

Como lo exige la ley, antes de contabilizar las boletas de voto por correo, el Departamento de Elecciones revisa la firma del elector en cada sobre que se recibe y la compara con la firma del registro electoral. Es posible que su firma haya cambiado, o que la imagen que tenemos de su firma no está clara.

Para actualizar su registro de inscripción electoral, incluso su firma, por favor complete, firme y devuelva la Solicitud de Inscripción para Votar de California en el sobre adjunto con franqueo pagado. Una vez que recibamos su solicitud completada y ésta se tramite, el Departamento de Elecciones le enviará una confirmación de su inscripción electoral, generalmente dentro de dos semanas.

Si usted no devuelve la Solicitud de Inscripción para Votar completada, aún se puede inscribir para votar. Sin embargo, en el futuro no podremos contabilizar su boleta de voto por correo si no podemos verificar su firma en el sobre de devolución con la firma de su registro electoral.

Si tiene alguna pregunta, por favor comuníquese con nosotros.

Atentamente,

El Departamento de Elecciones de San Francisco



Voter Engagement



V. Recommendations for Improving the Vote-by-Mail Process and Topics for Further Study

To improve the vote-by-mail process and ensure a greater number of ballots are successfully cast and counted, the California Voter Foundation (CVF) has the following recommendations for lawmakers and election administrators to consider implementing, along with additional topics worthy of further study.

1. Legislative Recommendations

1. **Provide the funding counties need to support county elections operations.** California's Constitution requires that the costs incurred by counties to provide election programs mandated by the Governor and Legislature be reimbursed. Vote-by-mail programs represent a sizeable portion of the election programs mandated by the state. Yet these programs have gone unfunded since 2011. The state's Legislative Analyst supports restoring funding for election mandates in order to avert the risk that a county or counties could decide not to perform the mandated duties, such as providing the option to vote by mail, resulting in inconsistencies, voter confusion, possibly lower turnout and potentially litigation.
2. **Refrain from enacting optional changes to the state's vote-by-mail system.** To avoid paying for new program costs, the State Legislature in recent years has enacted a number of laws affecting the vote-by-mail program but has made the changes optional for counties to implement so that the state is not required to pay for them. A recent example is a new law that allows counties to let voters apply for a vote-by-mail ballot by phone if a county wishes to provide this option. (1) This type of change results in a lack of standardization and can confuse voters who are unsure of their voting rights because they vary from county to county.
3. **Require counties to contact voters before Election Day if their signatures don't match or are missing from the VBM envelope.** In the three-county study, CVF found that only one county, Santa Cruz, attempted to contact voters prior to Election Day if their envelope signature did not compare to the one on file. All three counties reported that they contact voters prior to Election Day to correct ballot envelopes with missing signatures. But all counties' ability to conduct this kind of outreach is limited due to resources. If the state were to require and fund the extra work needed to correct signature problems, it would help reduce the number of uncounted VBM ballots.
4. **Allow voters who didn't sign their VBM envelope to submit their signature on a separate piece of paper prior to Election Day to be attached to their ballot.** Lack of a signature was one of the top three reasons why some VBM ballots did not get counted in the three-county study. But all three counties, and likely others as well, do pre-screen VBM ballots received prior to Election Day for signatures. All three counties attempt to contact the voter to collect a signature. One county sends the VBM ballot back to the voter. The other two counties prefer to hold on to the ballots and instead contact the voter by phone, mail or email and urge them to come to the county election office and sign their envelope. A third option would be to allow counties to collect the voter's signature separately from the ballot envelope, using a standardized form containing the same oath that appears on the vote-by-mail envelope, that can be attached to the VBM envelope once received. At least one other state has implemented a similar provision in order to allow more VBM ballots to be counted. (2)

5. Enact a comprehensive framework for early voting. Increasingly, voters are returning their VBM ballots directly to an official ballot drop site rather than sending them through the mail. Of the nearly one million voters who cast November 2012 VBM ballots in the three-county study, 30 percent did so in person and not through the mail. Current state law allows voters to return VBM ballots to polling places on Election Day, or to the county election office prior to Election Day. Many counties also offer a VBM ballot drop box outside their election office where voters can deposit their ballots 24 hours a day. To provide even more conveniences for voters, some counties allow ballots to be returned to other public offices, such as city halls and libraries, located within the county. State law does not provide a comprehensive framework for early voting in California, but as a growing number of voters are opting to cast a VBM ballot in person, there is a greater need to do so.

6. Allow voters to return a VBM ballot to any election office or polling place in the state. All three counties reported that they receive ballots from voters in other counties, most frequently from college students who drop off a vote-by-mail ballot from their home county. Many counties already send ballots received in error to their home counties so the local registrar can contact the voter and/or update the voter's record. A change in California law that would allow voters to return a VBM ballot to any election official or polling place in the state would help reduce the number of VBM voters who are disenfranchised for this reason. It would also provide additional options to voters who live and work in different counties. Such a change in the law would result in additional work and expense for county election offices and would need to be supported with state funding.

7. Allow VBM ballots postmarked by Election Day to be counted. In December 2012, Senator Lou Correa (D-Santa Ana) introduced Senate Bill 29 in the California Legislature, to allow VBM ballots postmarked by Election Day and received within three days of Election Day to be counted (according to local election officials, most late ballots arrive by then). A Public Policy Institute of California study found that late arrival accounted for 47 percent of the unsuccessful VBM ballots cast in 31 California counties in 2012. (3) Making this one change in state law would likely significantly reduce California's unsuccessful VBM ballot rate. Currently seven states (Alaska, Iowa, Maryland, North Carolina, North Dakota, Washington and West Virginia) and the District of Columbia allow ballots postmarked by Election Day to be counted and an additional five states (Alabama, Illinois, New York, Ohio and Utah) allow ballots postmarked the day prior to Election Day to be counted. (4)

8. Require counties to notify voters if their VBM ballot was not counted. Under current law, counties are required to provide voters with the ability to look up online, or call by phone, to find out if their VBM ballot was counted and if not, why not. (5) But getting this information to the voter requires the voter to take the initiative and to know when and where to look for the information (a statewide tool is not scheduled to be available until 2016). It would be far more effective if election officials were required under state law to notify voters when their VBM ballots are not counted and why, so that voters can avoid making the same mistakes and repeatedly disenfranchising themselves. Such mailings could also include a voter registration card if the ballot was not counted because the signature did not compare in order to collect a current signature from the voter to keep on file for the next election (all three counties studied already provide this service to voters).

9. Require counties and the Secretary of State to report the number of uncounted VBM ballots and reasons why they were not counted. The problem of uncounted VBM ballots has gone largely unnoticed in recent years due in part to the difficulty in determining the actual number of ballots that are uncounted statewide. Data currently available on the Secretary of State's web site is not accurate. (6) If the Secretary of State were to collect and gather accurate data from all 58 counties providing the number of VBM ballots not counted and the reasons why, it would give the public the ability to compare and contrast counties' performance and practices and also give election officials and policy makers a better understanding of where attention needs to be placed to reduce the number of uncounted ballots.

2. Administrative Recommendations

Many of California's 58 county election officials and the Secretary of State currently engage in a number of innovative and beneficial practices to facilitate effective vote-by-mail balloting. Below are several recommendations election officials may consider implementing and reform advocates may wish to promote to further improve the VBM process at an administrative level.

1. Conduct a "plain language" review of VBM materials. Two of the counties in CVF's study have undergone plain language reviews of some, but not all, of their election materials. Plain language reviews help reduce textual and visual clutter on documents to help ensure that key information is conveyed. The

VBM return envelopes for all three counties CVF studied contained a lot of text on both the front and back of the envelopes, as well as warning messages and text in red or in all capital letters. The overall message conveyed with these envelopes may be confusing to voters and they could be improved by being less wordy and more attractive. Much of the envelope text is dictated by statute (Election Code Section 3011); it would be worthwhile to also consider legislative changes to move some of the envelope text to an instruction sheet instead, which counties typically provide to VBM voters.

2. Use barcodes to track VBM materials and ballot envelopes. In the legislative debate over the proposed postmark bill, questions have arisen about how to deal with ballots that lack a postmark and whether to count them. Some have expressed concern about the potential for post-election ballot box stuffing with late ballots lacking a postmark submitted after Election Day to try to affect the outcome of a close race with a long vote count underway. One potential remedy is to use barcodes on the VBM envelopes that can be read later to discern the date they arrived in a U.S. Postal Service sorting facility or when the postage was cancelled. With the use of the USPS' Intelligent Mail barcode (IMb) technology, election officials can also determine whether an outbound VBM ballot has been delayed and potentially provide that information to voters in near-real time so they can make alternative voting plans, such as casting a ballot in person at the county election office or a provisional ballot at their polling place. (7) Orange County began using IMb in 2012 and has found the technology to be extremely useful in assisting VBM voters with questions about their ballot status.

3. Provide and improve online lookup tools that let voters check the status of their VBM ballots. Currently, 45 of California's 58 counties provide vote-by-mail lookup tools on their websites. However, these tools vary in the kind of information voters can learn from them. Some let voters see if their VBM ballot has been sent out, or if their completed ballot has been received. CVF's three-county study found that in one county, the VBM status lookup tool is only available during the election period; in another county it is available year-round, but only displayed the status of the voter's ballot for the most recent election; and in the third county, it is available year-round and displays the voter's entire voting history.

A new state law requires counties to let voters find out, either online or by phone, whether their VBM ballot was counted and if not, why not. Some counties have already built this function into their VBM lookup tool; however in the two counties CVF reviewed that had this function (Orange and Santa Cruz), the language presented to the voters was unclear, describing a counted ballot as "good" and an uncounted ballot as "challenged". (Following CVF's review, two counties changed their lookup tool messaging, replacing "good" with "accepted" and "counted".) Like other VBM materials, lookup tool messaging would benefit from a plain language review. CVF's study found that one county's lookup tool informed voters whose ballots were challenged due to signature problems that they were "pending", potentially leaving a false impression that there were no problems with the ballot. It would be beneficial to voters if lookup tools informed voters in real time if their ballot is being challenged and why, so they can attempt to correct it prior to Election Day. Providing a phone number on the response message is also advised.

4. Expand the state's Uniform Vote Counting Procedures to include signature comparison guidelines and procedures for handling challenged signatures. While each county in CVF's study had written procedures for signature comparison and the steps to take in handling challenged ballots, the lack of uniformity in these procedures could result in legal challenges in close elections where the contest involves multiple counties. CVF's study also found a significant difference among the three counties in the percentage of VBM ballots not counted due to a determination that the VBM envelope signature did not compare adequately to the signature on file. In Sacramento County, on average over four elections, this accounted for 34 percent of the VBM ballots not counted, while in Santa Cruz it was 15 percent and in Orange it was 6 percent. This significant difference also suggests a potential equal protection issue in which California voters' VBM ballots do not stand an equal chance of being counted due to varying county verification practices.

5. Establish clear procedures and instructions for how voters can remove themselves from the permanent vote-by-mail list. Choosing permanent VBM voter status became an option for California voters after a change in the law enacted in 2001. (8) This option has been added to the voter registration form, and it is described in statute how voters can apply to become a permanent VBM voter (Election Code Section 3201); however, current law does not say how voters can remove themselves if desired. The Secretary of State's website also does not provide guidance to voters on this topic. In CVF's study, only one of the three counties had an application that voters could use to make this request. It would be beneficial for the Secretary of State to create and distribute a standardized form that counties could provide to voters who wish to change their VBM status.

6. Add the "Official Election Mail" logo to all VBM envelopes. Most counties place the USPS' "Official

Election Mail" logo on envelopes, but not all. CVF's three-county study found that two counties use this logo while one did not (though reportedly is planning to begin this year). Although this logo has no technical role in mail processing, it does provide a uniform, visual signal to mail carriers that time-sensitive election materials are in their hands. It may also help keep postal workers from mistakenly holding back voted VBM ballots that lack sufficient postage.

7. Request vote-by-mail applicants' phone numbers and email addresses on application forms.

California voters are not required to provide a phone number when they register to vote or request a vote-by-mail ballot, and it is up to counties to decide whether to request a phone number on the VBM ballot application form. CVF's study found that Orange and Santa Cruz counties requested both a daytime and evening phone number while Sacramento requested a daytime phone number. Obtaining VBM voters' phone numbers gives elections officials the ability to contact voters who submitted VBM ballots erroneously and help voters correct their mistakes.

8. Develop a statewide public relations campaign to help voters avoid common VBM mistakes.

Creating a uniform, statewide slogan such as "Make it Count!" or "Signed and Delivered" along with key tips for successful VBM balloting may help reduce VBM errors and subsequent disenfranchisement. A multimedia voter education campaign produced by election officials in collaboration with voter advocacy groups to increase voter awareness of the top three reasons some VBM ballots don't get counted (too late, no signature, and bad signature) could include a slogan, logo, infographic, fact sheet/talking points and a series of short videos. In 2012, Washington State's King County developed a series of public service announcements and advertisements that serve as an excellent example, featuring celebrities and engaging, simple messages, such as "Get your ballot voted and returned by Election Day." (9) Another message that many election officials expressed a desire to convey to voters is to "Get your ballot in early" in order to provide ample time for officials to address potential signature problems and reduce the number of late ballots received that go uncounted.

9. Develop a campaign to educate postal workers about the importance of sending election mail through.

According to the Bureau of Labor Statistics, the USPS employs approximately 307,000 Postal Service Mail Carriers nationwide, with approximately one-tenth (33,000) working in California alone. (10) An educational campaign developed by election officials in collaboration with voter advocacy groups could include a webinar, short educational video and/or a simple "Do's and Don'ts" list for handling election mail targeted to postal employees and emphasizing the importance of sending election mail through as quickly as possible in order to help reduce the number of late ballots.

3. Topics For Further Study

1. Consider alternative postage approaches. VBM ballots and envelopes vary in size and weight depending on the county's ballot style and the number of contests on a voter's ballot. Longer ballots weigh more and require extra postage. Difficulty determining the correct amount of postage required to mail a completed VBM ballot creates an extra hurdle for VBM voters as well as election officials, who have found postage costs vary from post office to post office and even from one postage scale to the next within the same post office. Voter education groups cannot inform voters statewide what to do either, since the postage costs vary so widely. A simpler approach would be to standardize the price of mailing a ballot, regardless of the weight. If the ballot postage price were set at one ounce, regardless of the actual weight, there would be far less confusion and more standardization in postage costs. The U.S. Post Office's "Forever" stamps increase in value as postage rates rise, so they could be used by voters with confidence that sufficient postage has been affixed to the envelope. Policymakers would need to determine how the additional postage costs would be covered.

Another postage issue that deserves more attention involves VBM voters who reside in all mail-ballot precincts. Under state law, counties must pay the postage costs for these voters' returned ballots. Counties typically use business reply mail, which delays ballot processing since the postage costs for each ballot must be debited against the counties' accounts before delivery. CVF's study findings indicate that voters in all mail-ballot precincts are more likely than VBM voters generally (who pay their own postage) to have their ballots go uncounted due to late arrival. An alternative approach to consider is using permit reply mail, which Netflix uses. This can increase postage costs, since postage must be pre-paid, but it speeds up delivery since the postage need not be debited from the permit holder's account before the mail is delivered. While all three counties in CVF's study have postal accounts to cover additional postage costs and this practice is reported to be common among county election offices, it is likely that the postage gap could be sizeable if this approach were taken. These alternative approaches to VBM postage would likely require financial support from the state and/or subsidies from the USPS.

2. Explore the need for automated signature verification technology to be certified and regulated by the Secretary of State. Several California counties are using commercial products to scan, compare and verify the signatures on VBM envelopes. Currently the use of these products is unregulated and it is possible for counties to set the parameters for accepting or rejecting signatures at varying tolerances. Use of signature verification technology needs to be regulated and certified by the Secretary of State, for two reasons: first, it is an essential tool used to determine which ballots to count and therefore is part of the ballot counting process, and; second, because several counties have purchased this equipment with funding from the state's Proposition 41 Voting Modernization Bond Fund which requires equipment purchased with these funds to be certified by the Secretary of State. (11) Establishing statewide standards and regulations will ensure automated VBM signature verification is carried out in a uniform manner. (12)

3. Consider letting voters limit the use of their email address and phone number to administrative purposes only. One county is already doing this for military voters after learning that many were choosing to not register or vote at all because they did not want their military email addresses receiving political email messages. A 2004 California Voter Foundation study of nonvoters found that one reason nearly one in four were not registered was because they wanted to keep their personal information private. Email address and phone number are optional fields on the California voter registration form and many voters leave these fields blank when registering to vote. But for election officials, this lack of information limits their options for contacting voters about problems with VBM ballots. Giving voters the ability to restrict the use of their personal contact information to administrative purposes will likely result in more voters opting to provide this information and thus additional ways for election officials to reach them. (It may also increase the number of voters opting in to accept electronic delivery of their sample ballot.) It would be particularly beneficial to military and overseas voters, who vote by mail not out of preference but rather necessity. These voters must provide their email addresses to election officials in order to facilitate balloting and deserve the right to shield their email address from secondary voter data users such as campaigns and the media.

4. Examine and improve the DMV's signature gathering process. Many would-be voters don't realize that the signature they provide to the Department of Motor Vehicles may well end up being their official voter registration signature. California began offering online voter registration in 2012, and already hundreds of thousands of applications have been completed and submitted online, using the applicant's signature on file with the DMV as the signature of record for the voter registration application. However, some of these signatures are made on signature pads with a stylus, resulting in what one election official referred to as a "Sharpie signature". As a result, many signatures on file are not the ideal representation of the voter's signature. A new state law that allows other signatures on file with the county elections office to be used to verify VBM signatures gives counties additional tools they can use. (13) But it is also important that the DMV and election officials take steps to ensure that the signatures they are collecting from customers can be reliably used for comparison, and that customers are aware that the signature they supply to the DMV may end up being their official signature for voter registration purposes. As "wet" signatures become a less reliable form of authentication, research may need to be conducted to explore additional ways election officials can verify voters and their ballots.

5. Consider expanding the use of VBM return envelopes that provide a signature privacy flap. Lack of signature is one of the primary reasons VBM ballots do not get counted. Some counties use VBM envelopes that allow the voter to sign the envelope and then fold or seal it in a way that hides the signature from public view until a tab is removed. Election officials can remove the tab to verify the signature without opening the envelope. In CVF's three-county study, Santa Cruz was the only county currently utilizing a signature privacy flap on its VBM envelopes. Santa Cruz also had the lowest average rate of VBM ballots not counted due to a missing signature, averaging at 14 percent of uncounted VBM ballots across the four elections studied, compared to Sacramento's rate of 17 percent and Orange's rate of 29 percent. It's possible that the additional measure of security and privacy offered by the flap will result in more voters signing their VBM ballot envelopes and those ballots getting counted.

6. Consider standardizing the vote-by-mail identification envelope statewide. VBM envelopes come in a variety of colors and sizes, and with varying instructions and notices to voters. These variations can create unnecessary confusion for voters and make it difficult for voter education groups to provide the public with accurate instructions when voting by mail. Standardizing the envelope could also help postal workers more easily identify ballots and ensure they are handled on a timely basis.

7. Explore the need for more robust and uniform statewide standards for third-party returns of vote-by-mail ballots. County instructions to voters in this area varied considerably, and it was unclear to what extent, if any, the counties attempt to verify the relationship and signature of the person returning a ballot on behalf of a VBM voter. The absence of uniform standards is a security vulnerability for vote-by-mail ballots and ought to be addressed.

8. Provide more avenues for voters to request their election materials in other languages besides English. Most California counties offer election materials in languages other than English. However, CVF's three-county study found the number of avenues provided to voters to add a language preference to their voter registration record was limited to making the request by phone or in writing. The time it takes for voters to request a new sample ballot in an alternative language delays the VBM voting process. While language preference has been added to the state's voter registration form, the addition came after many people have already registered to vote. Providing an online request form and/or a paper form in the sample ballot book could help facilitate these requests and accelerate the delivery of needed election materials, while also expanding voter awareness that material in alternative languages is available.

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1. Assembly Bill 530, authored by Assembly Member Sharon Quirk-Silva, D-Fullerton, online at http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0501-0550/ab_530_bill_20131003_chaptered.pdf.
 2. Florida House Bill 7013 was enacted in 2013, and is online at <http://www.fisenate.gov/Session/Bill/2013/7013>.
 3. See "Expanding California's Electorate: Will Recent Reforms Increase Turnout?", by Eric McGhee, published by the Public Policy Institute of California, January 2014, p. 12, http://www.ppic.org/content/pubs/report/R_114EMR.pdf.
 4. See http://www.longdistancevoter.org/absentee_ballot_deadlines#.Uz3yHVyzt_8 for more details on each state's absentee ballot acceptance rules.
 5. Senate Bill 589, authored by State Senator Jerry Hill (D-San Mateo), enacted in 2013.
 6. Historical vote-by-mail statistics are available on the Secretary of State's website with the caveat that "(b)ecause not all counties provided information, no complete statewide data is available", online at http://www.sos.ca.gov/elections/elections_m.htm#hist.
 7. See <https://www.usps.com/gov-services/election-mail.htm> and https://ribbs.usps.gov/confirm/documents/tech_guides/IMb_Tracing_User_Guide.pdf.
 8. Assembly Bill 1520 of 2001, authored by then-Assembly Member Kevin Shelley (D-San Francisco).
 9. See <http://www.kingcounty.gov/elections/news/psa.aspx> and <http://www.kingcounty.gov/elections/news/psa/2013.aspx>.
 10. <http://www.bls.gov/oes/current/oes435052.htm>.
 11. The text of Proposition 41, the Voting Modernization Bond Act of 2002, is available online at http://www.sos.ca.gov/elections/viguide_pe02/prop41_text.pdf. Voting Modernization Board staff reports on equipment purchased with bond funds are online at http://www.sos.ca.gov/elections/vma/staff_reports.html.
 12. Assembly Bill 2530, introduced in February 2014 by Assembly Member Freddie Rodriguez (D-Pomona), would, if enacted, establish requirements for human review of VBM ballots rejected by automated signature verification systems, online at http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_2501-2550/ab_2530_bill_20140804_amended_sen_v97.pdf.
 13. Assembly Bill 1135, authored by Assembly Member Kevin Mullin (D-South San Francisco), enacted in 2013.

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