

ORANGE COUNTY  
REGISTRAR OF VOTERS



# Orange County Vote-by-Mail Program Report Update

Response to  
Orange County  
Board of Supervisors Directive  
March 22, 2011





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## Executive Summary

In March of 2009 the Orange County Registrar of Voters released the “Orange County Vote-by-Mail Program Report” in response to a Board of Supervisors Directive. The report provided an extensive review of conducting all vote-by-mail elections. We detailed the State of Oregon experience where voting by mail has evolved over the last 30 years. In addition we provided insight into the vote-by-mail program in the State of Washington that allows counties the option of conducting all vote-by-mail elections. We also detailed an assessment of what it would take to conduct all vote-by-mail elections in Orange County.

Revisiting the report after two years we have found:

- **Oregon vote-by-mail turnout percentages are flat.** There is still no evidence that voter turnout has increased as a result of conducting vote-by-mail elections in the state. Oregon continues to provide secure all mail ballot elections.
- **Washington vote-by-mail turnout provides little evidence of increased turnout.** Washington elections have provided a variety of increases in turnout since they have given their counties the option to conduct all vote-by-mail elections. The greatest increase in turnout happened before the change in the law. Pierce County, the only county that continues to provide polling places, witnessed a similar increase in turnout as the rest of the state.
- **A growing number of states are turning to vote-by-mail.** More states are looking into all vote-by-mail voting. One possible reason would be cost savings based on our review. Additional data from various types of elections confirms that all vote-by-mail voting does not increase turnout. Turnout remains relatively steady while the manner in which voters cast their ballot changes. Despite evidence to the contrary more states are using increased turnout as a selling point to pass legislation providing for all vote-by-mail voting. Vote-by-mail voting was given little credit by the Colorado Secretary of State’s office for the increased turnout in a recent all vote-by-mail election in Colorado.
- **Orange County has increased its capacity based on vote-by-mail demand.** Vote-by-mail voting continues to grow in Orange County. In 2010, for the first time in an Orange County general election vote-by-mail ballots represented a higher percentage of the ballots cast than polling place votes. In response, we have continued to automate vote-by-mail ballot preparation for mailing and tabulation.



• **California continues to see vote-by-mail legislation proposed despite resistance.** As discussed in our 2009 report, legislative proposals to change to a all vote-by-mail voting system in California have met resistance over the years. This trend continued in 2009 and 2010 as one vote-by-mail bill was vetoed and two did not make it out of committee for a vote. There are currently 12 bills regarding vote-by-mail voting pending in the State Legislature.

There is little evidence to support arguments that vote-by-mail increases turnout and voter fraud. It is true that vote-by-mail elections save money, which varies from jurisdiction to jurisdiction. It is also clear that vote-by-mail is on the rise whether it is by mandate or voter option.



Neal Kelley  
Registrar of Voters



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## Update of Vote-by-Mail in Oregon

### The Oregon Experience Revisited

As reported in 2009, the State of Oregon went through various modifications to its vote-by-mail system for nearly 30 years, culminating in an all vote-by-mail voting system in use today. Little has changed in Oregon in regards to election law since 2009. Reports of voter fraud remain nearly non-existent. Voter turnout statistics have remained relatively flat since 2009. This remains true for all types of elections conducted in the state.

### ***Any Changes to Oregon Election Laws***

There have been amendments to Oregon election laws in the past year; however the amendments make no substantial changes to the vote-by-mail process.

### ***Any Reports of Voter Fraud***

In 2009 we reported that Oregon had one case of voter fraud since 2003. Oregon's Attorney General's office confirmed that cases of voter fraud are rare instances that do not impact election results. They reported two cases of voter fraud in 2010. One case involved a woman that registered in two different counties. The evidence showed that she altered her name and date of birth.

The second case involved a man who voted under the name of his deceased son for a period of six to eight years. Elections officials typically learn of a registered voter's death from the Department of Health and Human Services. In this case, however, the man's son died in Washington. Records are not transferred between the two states. Although the son's Oregon registration was cancelled when he moved to Washington, the father re-registered under his son's name and the cancelled record was not matched with the new registration.

It is important to put these cases in perspective. These are the only cases of fraud being investigated in a state of 3,000,000 registered voters.

### ***Oregon: Overall Voter Participation Updated***

Oregon initially introduced all vote-by-mail elections to reverse the trend of steadily declining voter turnout. The results remain inconclusive as to the effectiveness. Updated graphs comparing similar elections are presented on the following pages.

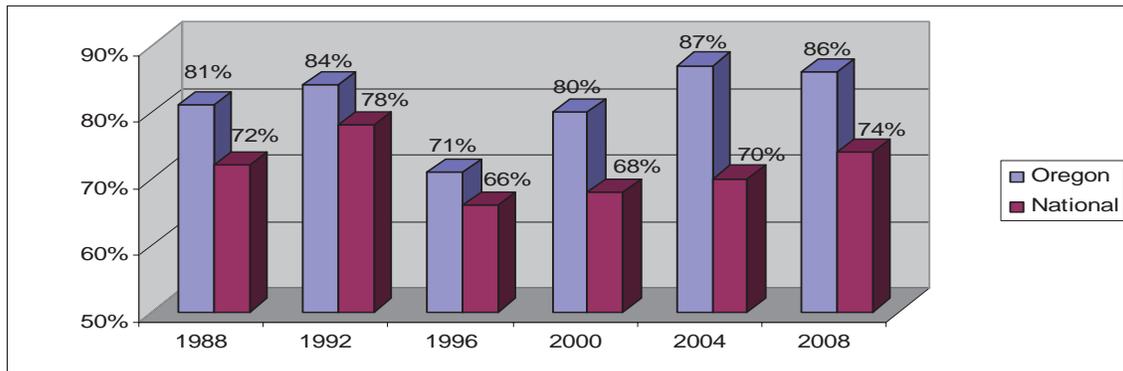




### Presidential General Elections

Voter turnout for presidential general elections in Oregon from 1988-2008 (full inception of all vote-by-mail took effect in 1999) does not show any exceptional increase over time. Also included in the graph is the national voter turnout for each election as provided by the Election Assistance Commission. Oregon followed the national trend of increasing voter participation in presidential general elections until 2008. The national turnout percentage continued its increase while Oregon turnout decreased by a percentage point.

**Oregon vs. National Voter Turnout: Presidential General Elections  
1988 – 2008  
(2008 national numbers updated since last report)**

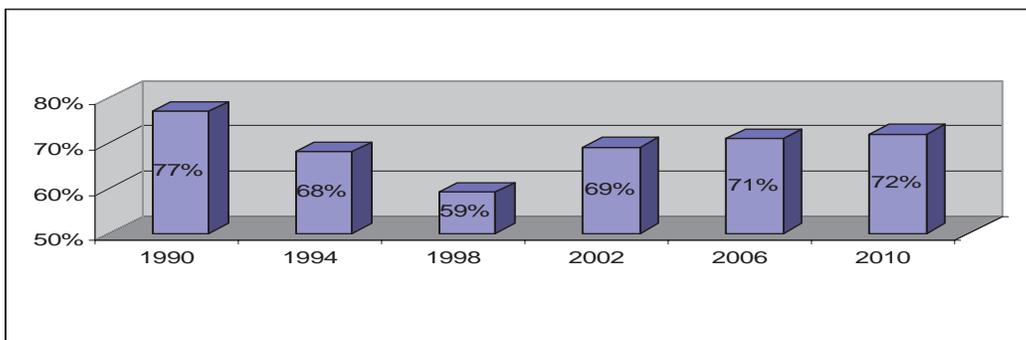


	1988	1992	1996	2000	2004	2008
<b>Oregon</b>	81%	84%	71%	80%	87%	86%
<b>National</b>	72%	78%	66%	68%	70%	74%

### Non-Presidential General Elections

With the exception of 1998, turnout numbers in non-presidential election years have remained steady. As with the presidential elections, turnout has trended up slightly since all vote-by-mail elections were implemented in 1999.

**Oregon Voter Turnout: Non-Presidential General Elections  
1990 - 2010  
(2010 numbers added since last report)**



	1990	1994	1998	2002	2006	2010
<b>Turnout</b>	77%	68%	59%	69%	71%	72%

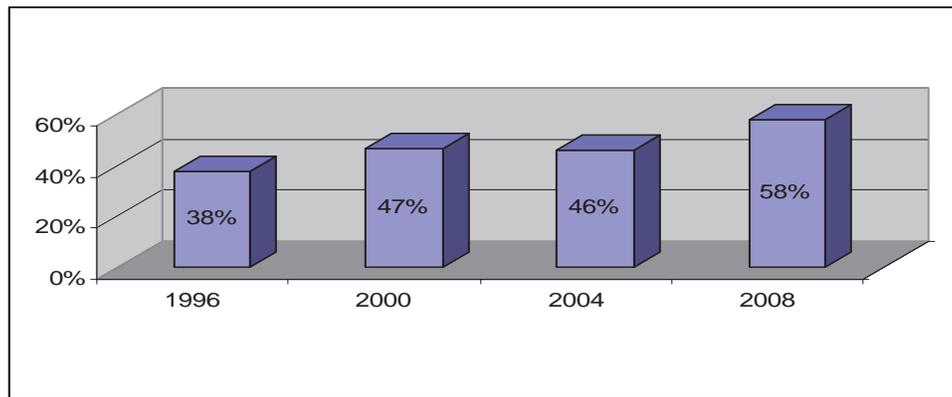




### Primary Elections – Presidential and Non-Presidential

Presidential primary and non-presidential primary elections conducted by mail continue to show minimal impact on voter turnout. The increase in turnout in 2008 over previous presidential primary elections may be explained by enthusiasm in Democratic voters who had a 73.56% turnout in Oregon. A USA Today/Gallup Poll appears to confirm this as their February 2008 survey showed 79 percent of Democrats were “more enthusiastic than usual about voting in this election” compared with 44 percent of Republicans. The fact that the election was all vote-by-mail was not cited as a reason for increased turnout in the story.

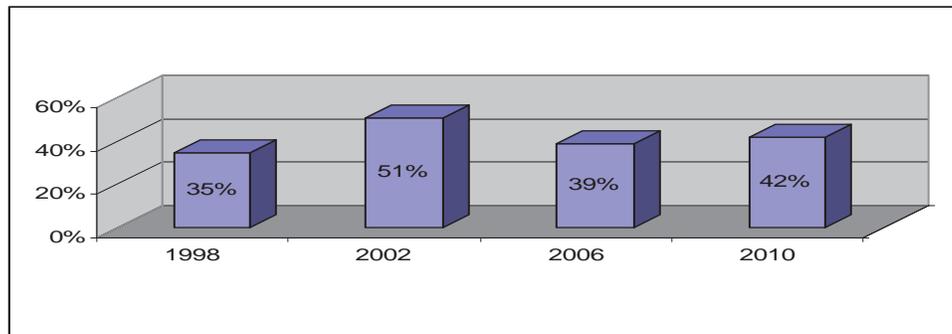
#### Oregon Voter Turnout: Presidential Primary Elections 1996 - 2008



	1996	2000	2004	2008
<b>Turnout</b>	38%	47%	46%	58%

Oregon has seen a minimal increase in non-presidential elections. The increases have yet to reach the highest level of 51% in 2002, the second election after all vote-by-mail elections became a permanent fixture in the state.

#### Oregon Voter Turnout: Non-Presidential Primary Elections 1998 – 2010 (2010 numbers added since last report)



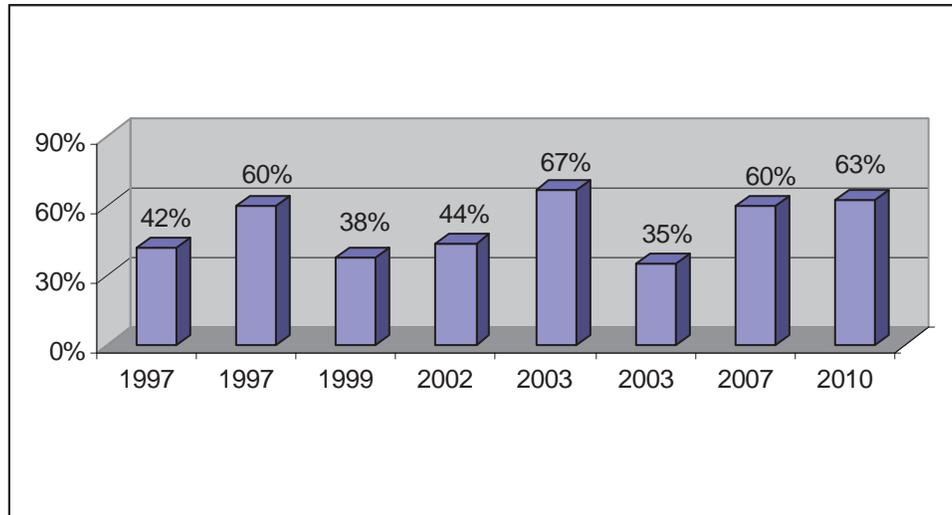
	1998	2002	2006	2010
<b>Turnout</b>	35%	51%	39%	42%



### Special Elections

A comparison of elections where ballot measures were voted on from 1997 to 2010 shows no visible increase in turnout. As stated in our 2009 report, the variation is likely attributed to the subject matter of the ballot measures and other outside influences.

**Voter Turnout: Special Elections  
1998 - 2010  
(2010 numbers added since last report)**



	1997	1997	1999	2002	2003	2003	2007	2010
<b>Turnout</b>	42%	60%	38%	44%	67%	35%	60%	63%



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## Update of Vote-by-Mail in Washington

### The Washington Experience Revisited

The State of Washington continues to provide counties the option to conduct all vote-by-mail elections. As was the case two years ago, Pierce County continues to maintain traditional polling places for those that wish to vote in person on Election Day. Reports of voter fraud remain non-existent in the State of Washington. Voter turnout numbers are increasing, but the election officials in Washington maintain increases can be explained by other factors such as measures on the ballot.

### ***Any Changes to Washington Election Laws***

There have been amendments to Washington election laws in the past year; however none of the amendments make any substantial changes to the vote-by-mail process.

The Washington Secretary of State's office stated that one motivation for the original all vote-by-mail election statutes was the cost of replacing voting systems under the Help America Vote Act (HAVA). Counties decided to conduct all vote-by-mail elections and use their HAVA money to purchase equipment such as ballot inserters. Although proponents may have cited a reduction in costs of elections and increasing voter turnout, motivation for moving to all vote-by-mail elections had to do with meeting the requirements of HAVA.

### ***Any Reports of Voter Fraud***

The Washington Secretary of State confirmed that typical voter fraud cases they see surround voter registration and petition gathering. There are a few instances of people voting their family members' ballots, but they have been prosecuted. There continues to be no evidence of rampant voter fraud and nothing that has had any effect on election results.<sup>1</sup>

### ***Washington: Overall Voter Participation Update***

Proponents of vote-by-mail voting in Washington State cite an increase in voter participation as one of the benefits. Voter participation in Washington has traditionally been higher than the national average. The greatest increase in turnout between elections occurred prior to the state's move to all vote-by-mail voting in 2005. All counties in Washington were given the option to conduct all vote-by-mail elections in 2005.

As noted in the aforementioned, Pierce County is the only county in Washington that continues to maintain polling places. Pierce County has seen an increase in turnout in elections of similar types providing further evidence that factors outside of voting-by-mail can and do increase turnout.

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<sup>1</sup> Phone conversation between Washington Secretary of State's office and Orange County Registrar of Voters staff on 1/27/2011.

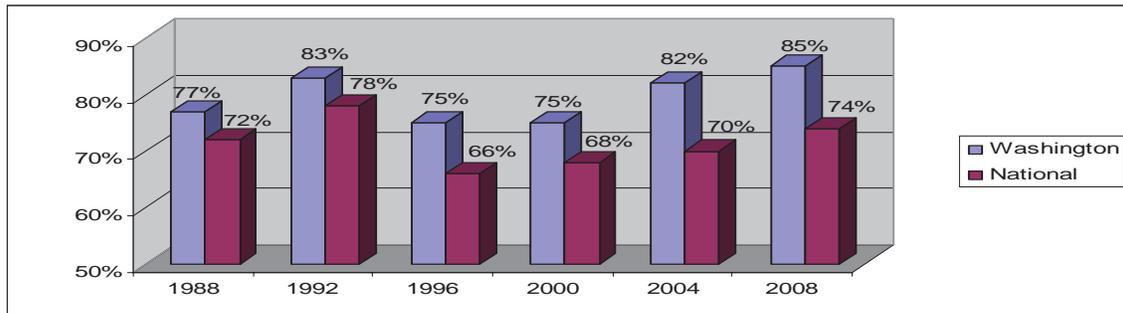




### Presidential General Elections

The data is inconclusive as to the impact of all vote-by-mail voting in presidential elections. The State of Washington experienced growth in voter participation prior to all-mail voting being used statewide. 2008 national voter turnout data, not available when the 2009 report was printed, has been added to the graph below. The 2008 increase in Washington's turnout was nearly identical to the national change adding additional evidence that factors outside of voting-by-mail are likely responsible.

**Washington vs. National Voter Turnout: Presidential General Elections  
1988 – 2008**  
(National numbers for 2008 updated since last report)

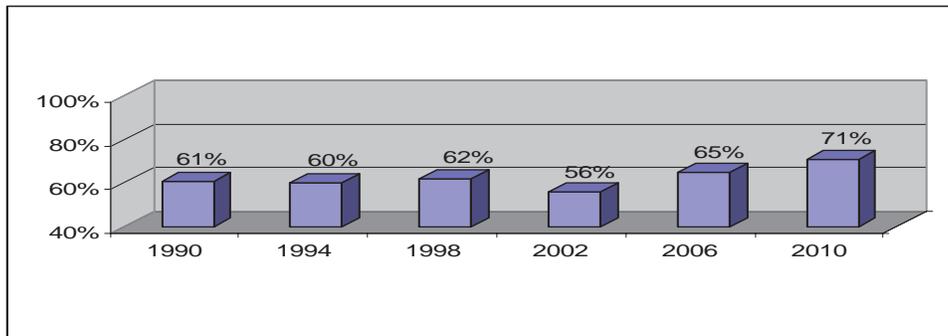


	1988	1992	1996	2000	2004	2008
<b>Washington</b>	77%	83%	75%	75%	82%	85%
<b>National</b>	72%	78%	66%	68%	70%	74%

### Non-Presidential General Elections

Turnout in non-presidential general election years has increased since 2005 when all Washington counties were given the option to conduct all vote-by-mail elections. The rate of increase is much greater than in presidential election years suggesting responsible factors are outside of voting-by-mail.

**Washington Voter Turnout: Non-Presidential General Elections  
1990 – 2010**  
(2010 numbers added since last report)



	1990	1994	1998	2002	2006	2010
<b>Turnout</b>	61%	60%	62%	56%	65%	71%





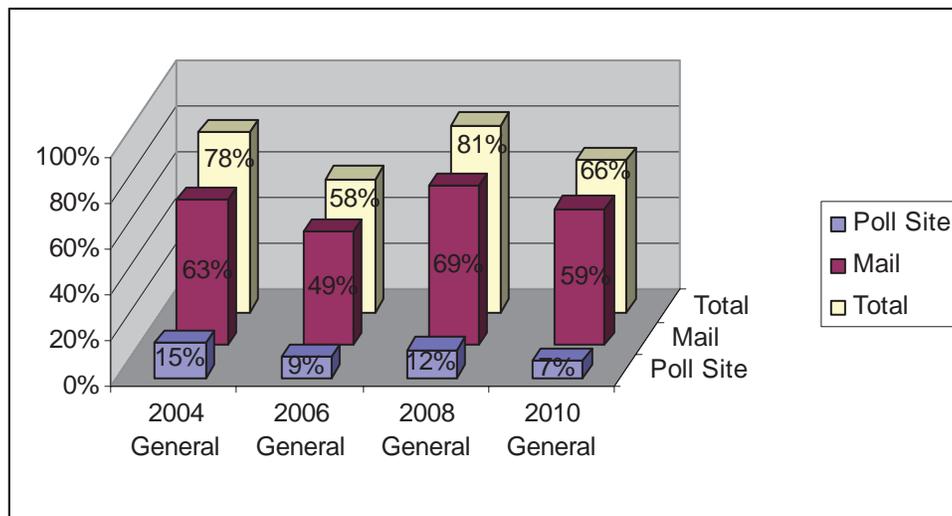
### Pierce County Elections

For the November 2010 General Election Pierce County consolidated 372 precincts into 56 polling places; a consolidation of six polling places into a single polling place.

The Pierce County Registrar of Voters office believes that long lines experienced at the consolidated precincts in 2008 are partially responsible for the decline of polling place voting in 2010.

Interestingly, overall participation growth in Pierce County matched state increases in presidential general elections and actually grew two percent more than the state in non-presidential elections.

### Pierce County, WA General Elections Voter Turnout: General Elections 2004 - 2010



	2004 General	2006 General	2008 General	2010 General
<b>Poll Site</b>	15%	9%	12%	7%
<b>Mail</b>	63%	49%	69%	59%
<b>Total</b>	78%	58%	81%	66%





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## New Jurisdictions Changing Vote-by-Mail Laws

### New Jurisdictions Look at Vote-by-Mail

Jurisdictions across the country are conducting cost-benefit analyses on all vote-by-mail voting. Some jurisdictions are conducting vote-by-mail pilot programs while others are looking into providing the option to conduct all vote-by-mail voting like Washington State.

### Pilot Program

#### **West Virginia**

House Bill 3134 established a pilot program that allows municipalities to conduct all vote-by-mail elections. The law authorizes no more than five municipalities in the state to conduct all vote-by-mail voting beginning with their 2011 Primary Election.

The five municipalities selected for participation in this phase may conduct both their primary and general elections entirely by mail. The West Virginia provisions remain in effect until January 1, 2014.

West Virginia's Secretary of State wanted five cities to participate. Cost does not seem to have been a major factor as the Secretary of State's office believes the program (all vote-by-mail) would be less expensive, but not significantly less than a standard election.

The City of Morgantown, the only city to sign on to the pilot program, will be conducting an all vote-by-mail ballot election at its next city election scheduled for April 26, 2011. The city hopes that the pilot program increases voter turnout and reduces election expenses. Local news reports state that the close 4-3 vote of the Morgantown City Council was controversial. Many residents spoke out against the program citing a lack of information about the city's plans, voter fraud and a loss of voter confidentiality.

### All Vote-by-Mail Option

#### **San Mateo County**

In 2010 the San Mateo County Board of Supervisors approved the recommendations of the County's Charter Review Committee. The changes included Charter amendments allowing for all vote-by-mail elections needed to fill vacancies in all County offices, which includes the Board of Supervisors.

Measure U was placed on the San Mateo ballot for the November 2, 2010 election and passed with 65.9% of the vote.

Following was the ballot label placed before the voters:

***“Shall the San Mateo County Charter be amended to require filling of vacancies on the Board of Supervisors by election for vacancies occurring on or before October 15th of the third year of the term, and by election or appointment for vacancies after October 15th; and to***





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***authorize, for vacancies in any county elected office, an all-mailed ballot election, and commencement of the process to fill the vacancy on the date a resignation letter is filed?”***

The first all vote-by-mail election in San Mateo County history will take place on May 3, 2011 to fill a vacancy on the Board of Supervisors. The County Registrar of Voters believes the all vote-by-mail election will cost \$1.1 million, saving the County about \$500,000 compared to a traditional election. The County will have voting stations available for those that insist on casting their ballots in person, including five early voting locations.

**Montana**

Local governments in Montana currently have the option to make their municipal elections all vote-by-mail. The Montana Secretary of State introduced a bill this year that would extend mail elections to presidential and other statewide elections. House Bill 130 expands vote-by-mail to all local, municipal, state and federal elections. Schools would retain the option to choose between polling place or mail-ballot elections. The legislation applies equally to every county, and would take effect on January 1, 2012.

According to an article in the Bozeman Daily Chronicle, the Secretary of State received support from a working group of county elections officials and voter groups who decided all vote-by-mail elections would improve election participation in Montana and save counties money. The Montana Association of Clerks and Recorders estimates that expanding vote-by-mail could lead to county cost savings of more than \$2 million for every major election cycle. The Association is quoted as saying this bill is their “top legislative priority”.

**Colorado**

In Colorado’s August 2010 Primary Election, 46 of the 64 counties conducted their elections entirely by mail under a law passed in 2009 allowing all vote-by-mail primary elections.

According to a New York Times article printed after the election, turnout surged due to interest in the Senate race and “mail-in balloting”. A spokesman for the Colorado Secretary of State stated that the increased turnout was “probably only partly due to the ease of voting from home”. A report delivered to the Secretary of State in December 2010 appears to substantiate his assessment and goes a step further; “Mail-in balloting appears to result in a small increase in voter turnout, but voters employing this mode are essentially identical to the existing electorate. Vote-by-Mail does not seem to promote greater diversity (e.g., increased participation by African Americans and Hispanics) in the electorate.”

The report also discusses the issue of fraud. The report states that “Critics of MIB (mail-in-balloting or vote-by-mail) cite increased opportunities for fraud as a major concern, but most evidence of fraud that they provide is anecdotal.”

The law was partially intended to save costs. The Douglas County Clerk Recorder anticipated that their cost per voter would be cut in half, saving taxpayers roughly \$200,000 per countywide election. Other counties also experienced similar savings. However, the December 2010 report delivered to the Secretary of State says that there is little systematic research on the cost impacts of conducting all vote-by-mail elections.



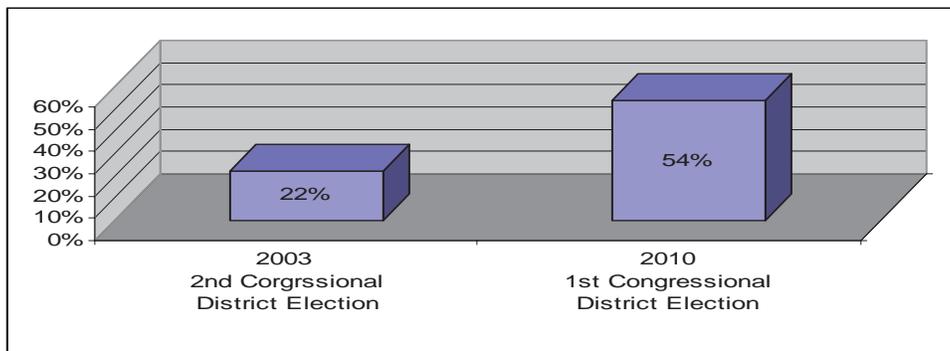


## Hawaii

Hawaii law allows for all vote-by-mail elections, not including regularly scheduled elections, for federal, state and county offices.

In May 2010 the State of Hawaii held its first all vote-by-mail special election for United States Representative in the state's 1st Congressional District. Voter turnout was 54%-representing a 32% increase over the 2003 special election for their 2nd Congressional District. This increase alone does not necessarily show an increase in voter turnout due to all vote-by-mail voting. Turnout for the 2010 General Election in Hawaii was nearly identical to the special election at 55.4% and was conducted with polling places.

### Hawaii Voter Turnout: Congressional District Elections 2003 and 2010



The state has recently implemented a permanent vote-by-mail voting status for voters. The Honolulu City Clerk has stated that the main goal is to provide options and convenience for voters. The permanent vote-by-mail application was sent to 250,000 homes of registered voters on Oahu.

Another reason cited for providing permanent vote-by-mail status is that 60% of their vote-by-mail voters repeat the process every election. By eliminating the need to reapply Honolulu expects to capture about 40,000 to 50,000 permanent vote-by-mail voters and save data entry costs.

The Honolulu Star Advisor reports that about 87,000 Oahu voters asked for vote-by-mail ballots for the September 2010 primary election, a 24 percent increase over the 70,000 vote-by-mail ballots that are sent to Oahu voters in a typical primary election.





## Update on Vote-by-Mail in Orange County

### Orange County Increases Capacity for Vote-by-Mail Voting

In 2009 we detailed the additional equipment requirements needed should Orange County conduct all vote-by-mail ballot elections. Over the past seven years we have acquired equipment to manage the increasing demand experienced countywide.

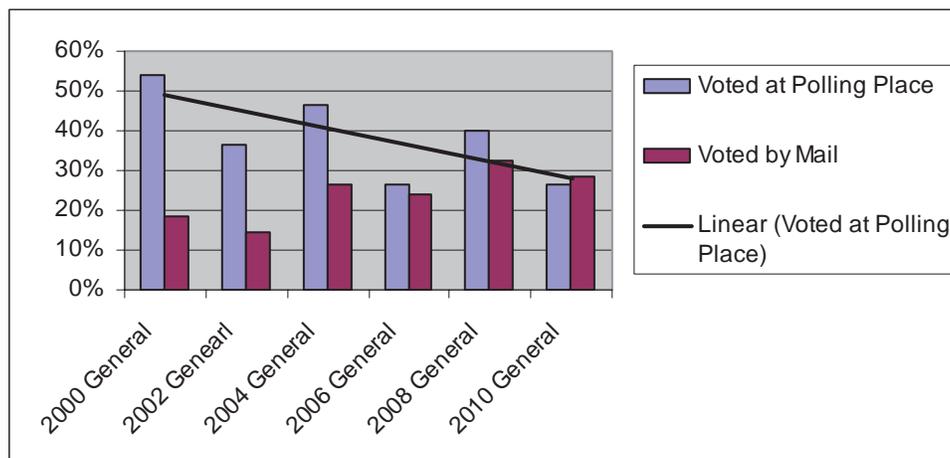
The increase in vote-by-mail balloting has necessitated a move away from the decades old practices of preparing vote-by-mail ballots for mailing and tabulation. In 2010 we acquired two ballot extracting devices. By utilizing technology to open and extract vote-by-mail ballots for the tabulation process we have reduced the number of individuals needed to prepare ballots for scanning. While speeding up the pace by which ballots are extracted we have reduced our costs for conducting elections by \$186,000.

Orange County has seen growth in vote-by-mail voting without all vote-by-mail elections. We will continue to look for ways to increase our capacity to provide vote-by-mail voting as demand necessitates. The percentage of Orange County voters choosing to vote-by-mail is increasing, while the percentage of votes completed at polling places is slowly declining. This growth is documented in the graphs below.

### **General Elections**

In 2010, for the first time in an Orange County general election, the percentage of vote-by-mail voters exceeded the number of voters at polling places. The graph below illustrates the steady decline of polling place voting in Orange County general elections as the percentage of vote-by-mail ballots increases.

**Orange County Voter Turn-Out: Voted at Polling Place vs. Voted-by-Mail  
General Elections 2000 - 2010  
(Percent of registered voters)**

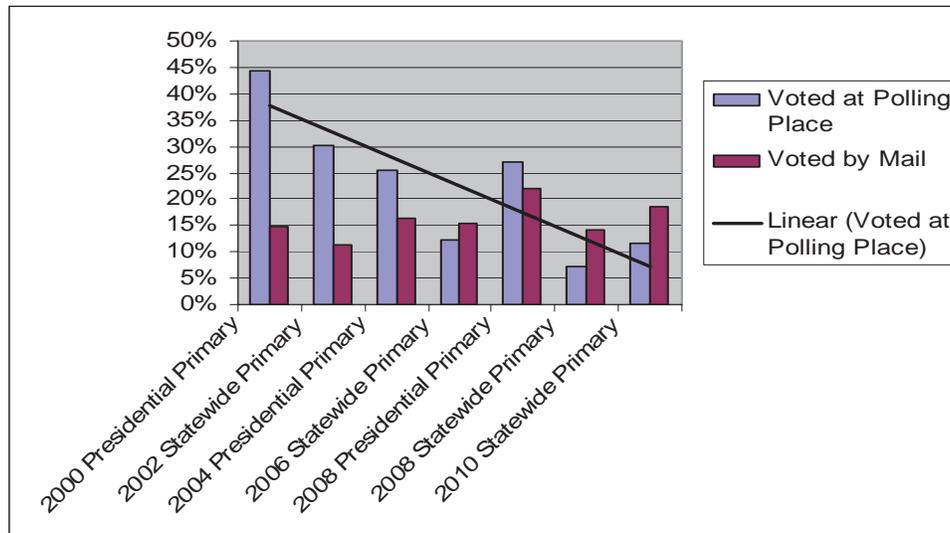




## Primary Elections – Presidential and Non-Presidential

In three of the last four primary elections (both presidential and non-presidential) the number of vote-by-mail voters exceeded the number of polling place voters.

### Orange County Voter Turn-Out: Voted at Polling Place vs. Voted-by-Mail Primary Elections 2000 - 2010 (Percent of registered voters with 2010 numbers added since last report)



	Voted at Polling Place	Voted by Mail	Total Voter Turn-Out
<b>2000 Presidential Primary</b>	44.2%	15.7%	59.0%
<b>2002 Statewide Primary</b>	30.1%	11.3%	41.4%
<b>2004 Presidential Primary</b>	25.4%	16.2%	41.6%
<b>2006 Statewide Primary</b>	12.4%	15.3%	27.6%
<b>2008 Presidential Primary</b>	26.9%	21.9%	48.7%
<b>2008 Statewide Primary</b>	7.1%	14.3%	21.5%
<b>2010 Statewide Primary</b>	11.7%	18.4%	30.1%

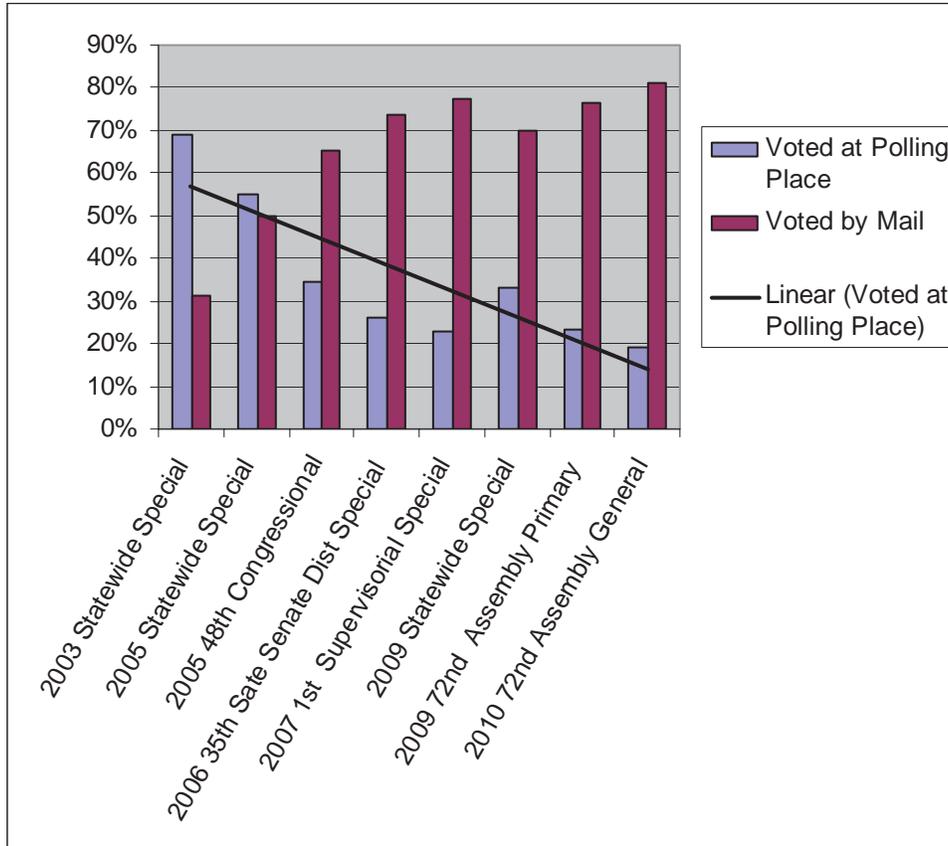




## Special Elections

Vote-by-mail voting has far exceeded polling place voting in Orange County in special elections since 2005. This phenomenon is likely due less to the popularity of voting-by-mail and is potentially due to voter fatigue. Turnout in Orange County special elections ranges from approximately 10% to 20% while we see 50% to 75% turnout in primary and general elections.

**Voting Types: Voted at Polling Place vs. Voted-by-Mail  
Special Elections 2003 - 2010  
(2010 numbers added since last report)**



	Voted at Polling Place	Voted by Mail
2003 Statewide Special	68.8%	31.2%
2005 Statewide Special	55.2%	49.8%
2005 48th Congressional Dist Special	34.6%	65.4%
2006 35th State Senate Dist Special	26.1%	73.9%
2007 1st Supervisorial Dist special	22.7%	77.3%
2009 Statewide Special	33.1%	69.9%
2009 72nd Assembly Dist Primary	23.5%	76.5%
2010 72nd Assembly Dist General	19.0%	81.0%

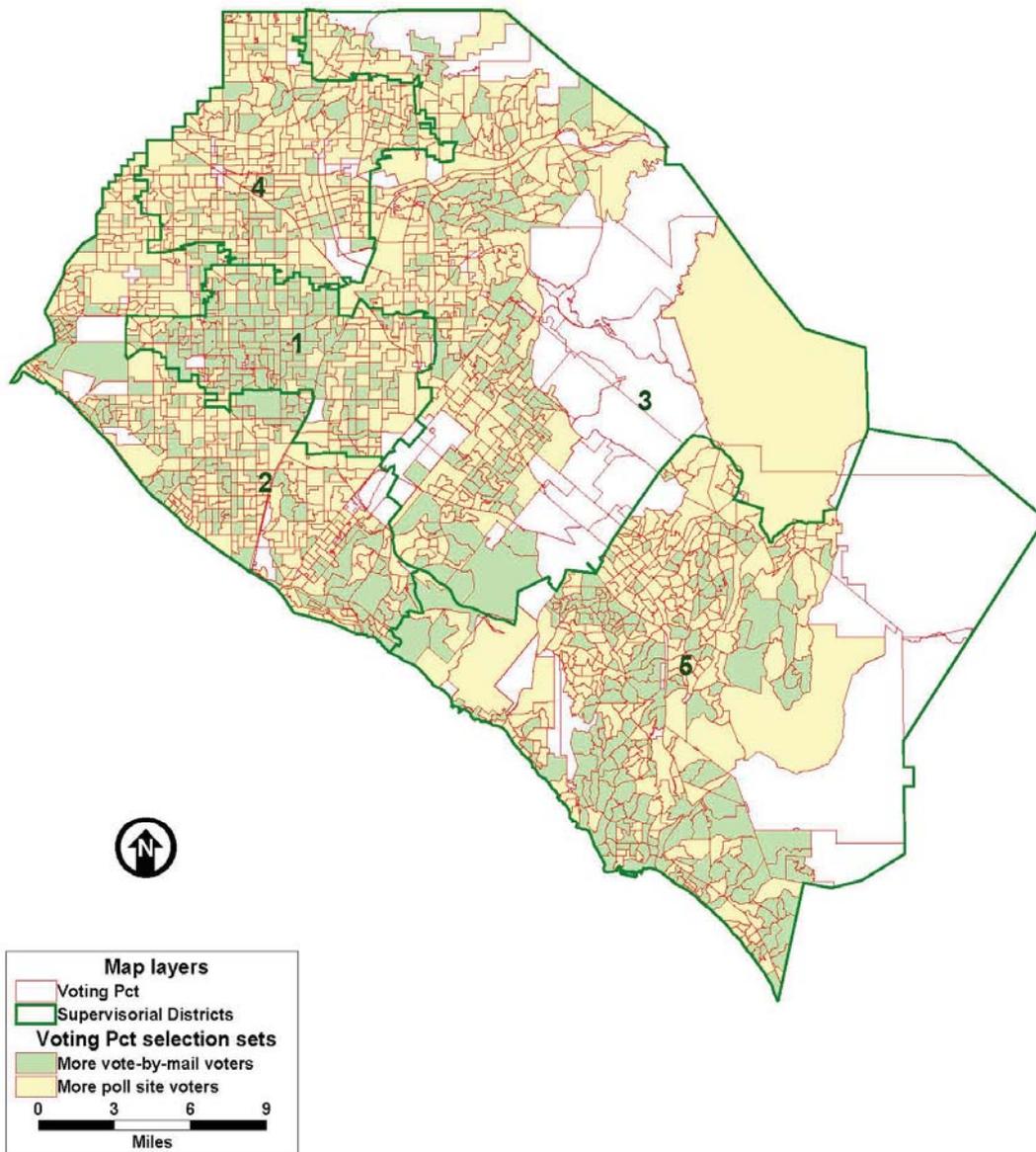




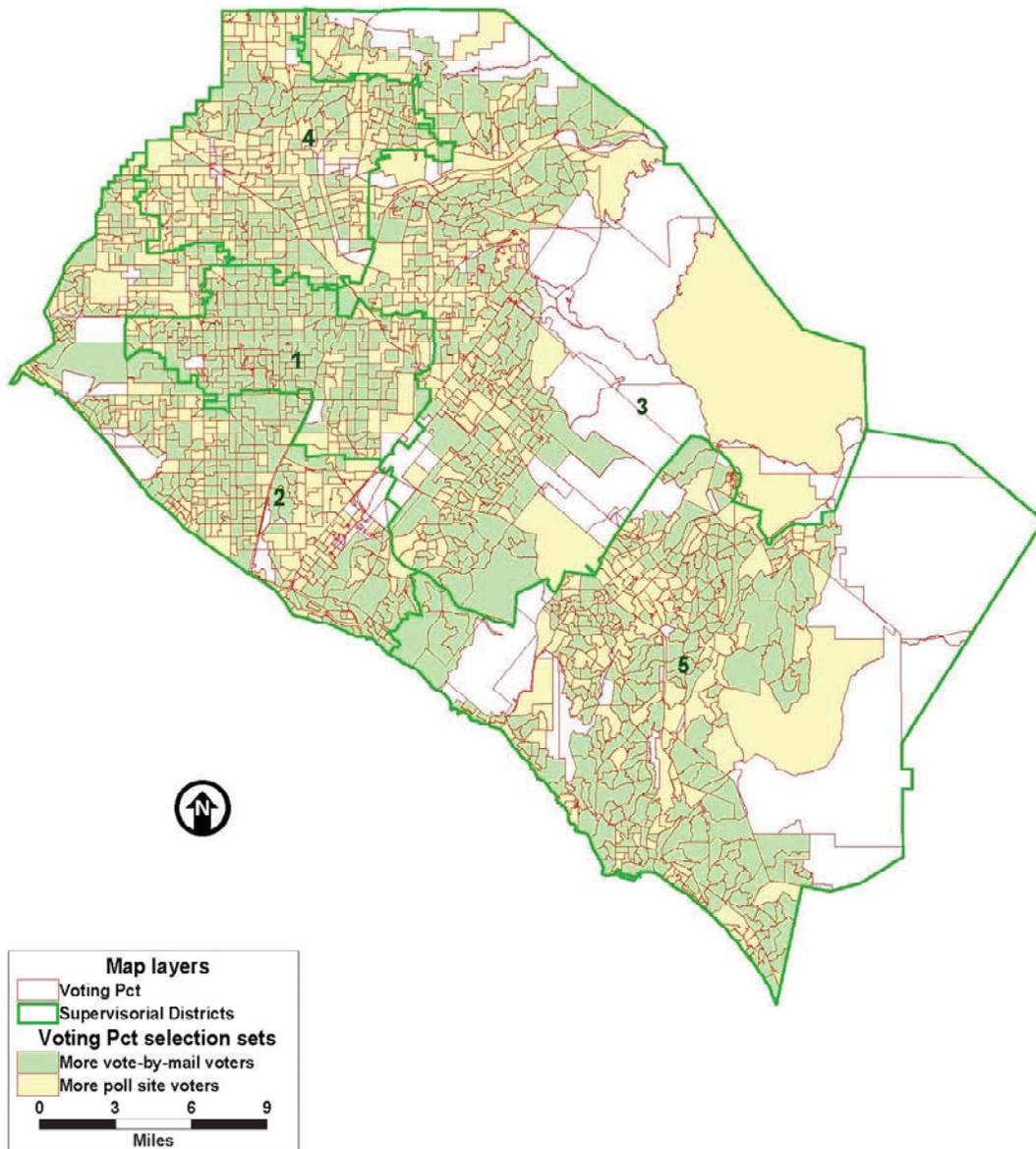
## A Visual Representation of Orange County's Vote-by-Mail Growth

The following pages provide a visual look at the increase in vote-by-mail voting versus polling place voting in the county. The graphs are identified by Board of Supervisor District boundaries.

# General Election 2006



# General Election 2010





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## Recent Vote-by-Mail Legislative Proposals in California

### 2009 - 2010

Our 2009 report provided the history of vote-by-mail legislation in California. It chronicled the lack of support in recent years for all vote-by-mail ballot elections in the state. That trend continued in the last two years.

Two bills that were introduced would have provided for pilot programs in specific counties to conduct all vote-by-mail elections, including primary and general elections. One bill, AB 1228, never made it to committee. The other, SB 1102, was vetoed by Governor Arnold Schwarzenegger who stated elections conducted solely by mail are “susceptible to fraud”. The other bill would have allowed counties to conduct vote-by-mail elections to fill vacancies in Congressional, State Assembly and State Senate contests. The bill did not advance and was placed on the inactive file.

### 2011

Twelve bills were introduced in the Legislature this year specifically dealing with voting-by-mail in California. Most are concerned with the process of voting-by-mail, but some deal with pilot programs for specified counties to conduct all vote-by-mail elections.

Governor Jerry Brown’s budget plan includes asking the voters to decide on several tax proposals. The Legislature has yet to vote on the plan. According to media reports, Governor Brown is contemplating the idea of the election being an all vote-by-mail ballot election. The San Francisco Chronicle reported that it would take a two-thirds majority of the Legislature to approve the vote-by-mail format.

The following pages include updates to California's vote-by-mail bills.





<b>Year</b>	<b>Bill</b>	<b>Author</b>	<b>Purpose</b>	<b>Action</b>
2009	AB 1228	Yamada	This bill would authorize as a pilot program, until December 31, 2016, elections in Yolo and Santa Clara Counties, other than statewide primary or general elections or special elections to fill a vacancy in a state office, the Legislature, or Congress, to be conducted as all-mailed ballot elections if specified conditions are satisfied.	Never heard in committee.
2010	SB 1102	Liu	This bill would, in addition, allow a special general or primary election called to fill a vacancy in an office of Representative in Congress, State Senate, or Member of the Assembly to be conducted wholly by mail if certain conditions are satisfied, including that the board of supervisors of each participating county authorizes the all-mail ballot election. The bill would revise and recast the procedures applicable to elections conducted wholly by mail, including procedures relating to notifying voters of information relating to the election, the distribution of election materials, and the establishment of locations for the return of ballots.	Died on inactive file.
2010	AB 1681	Yamada	This bill would authorize as a pilot program, until December 31, 2014, elections in Yolo County, other than statewide primary or general elections or special elections to fill a vacancy in a state office, the Legislature, or Congress, to be conducted as all-mailed ballot elections if specified conditions are satisfied.	Vetoed
2011	AB 293	Hill	This bill would require the local elections official to establish a free access system by which a vote by mail voter may find out whether his or her ballot was counted and, if not, the reason why it was not counted.	Referred to Committee on E. & R. 2/24/11





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2011	AB 413	Yamada	This bill would authorize, as a pilot program, until December 31, 2017, elections in Yolo County, other than statewide primary or general elections or special elections to fill a vacancy in a state office, the Legislature, or Congress, to be conducted wholly by mail if specified conditions are satisfied. The county would be required to report on these elections to the Legislature and the Secretary of State, as specified, if an election is conducted wholly by mail pursuant to this authority.	From printer. May be heard in committee March 17. 2/15/11
2011	AB 477	Valadao	This bill would make an exception for special absentee voters, as defined, temporarily living outside of the territorial limits of the United States or the District of Columbia and would instead require that their vote by mail ballot be postmarked or signed and dated by the voter on or before election day and received by their elections official not later than 14 days after election day.	From printer. May be heard in committee March 18. 2/16/11
2011	AB 867	Swanson	This bill would provide that an application for a vote by mail ballot must be received by the elections official between the 29 <sup>th</sup> and 7 <sup>th</sup> days prior to the election. The bill would authorize a voter to designate an authorized representative in writing to an elections official to receive, return, or both receive and return, that voter's vote by mail ballot. If a voter is unable to return his or her vote by mail ballot, this bill would authorize the voter to have his or her authorized representative return the ballot to the elections official regardless of whether his or her inability to return the vote by mail ballot is due to illness or physical disability. This bill would, except for an authorized representative of a candidate or the spouse of a candidate, prohibit a voter's authorized representative from being a candidate or the spouse of a candidate, or a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, campaign committee of a candidate, or any other group or organization at whose behest the individual designated to receive the ballot, return the ballot, or both receive and return the ballot is performing a service.	From printer. May be heard in committee March 20. 2/18/11





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2011	AB 896	Portantino	This bill would permit the counting of vote by mail ballots and special absentee ballots that are returned by mail and postmarked by election day.	From printer. May be heard in committee March 20. 2/18/11
2011	AB 1343	Fong	This bill would, instead, require that a permanent vote by mail voter be removed from the list of qualified permanent vote by mail voters if the voter fails to return an executed vote by mail ballot in 4 consecutive statewide general elections.	From printer. May be heard in committee March 22. 2/22/11
2011	SB 109	Gaines	This bill would also authorize a small county with a population of 400,000 or less to conduct an election therein wholly by all-mail ballot, subject to the same conditions currently imposed on small cities and other eligible entities. This bill would declare that it is to take effect immediately as an urgency statute.	Referred to Committee on E. & C.A. 2/10/11
2011	SB 165	La Malfa	Existing law provides that specified persons may observe and challenge the manner in which vote by mail ballots are handled and processed by county elections officials and that vote by mail voter observers be permitted sufficiently close access to observe vote by mail ballot return envelopes and the signatures thereon. This bill would make a nonsubstantive change to these provisions.	Referred to Committee on RLS. 2/17/11
2011	SB 199	Correa	This bill would permit a voter to return a vote by mail ballot to any polling place in the state, and in the case of a vote by mail ballot returned to a precinct located in a county other than the county of the elections official who issued the ballot, would require the elections official of the precinct at which the ballot is returned to forward the ballot to the elections official who issued the ballot.	Referred to Committee on E. & C.A. 2/17/11





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2011	SB 304	Kehoe	This bill would authorize elections in San Diego County to be conducted wholly by mail until January 1, 2016, if specified conditions are satisfied. If San Diego County conducts an all-mailed ballot election, the bill would require the county, on or before December 31, 2016, to report to the Legislature and to the Secretary of State regarding the success of the election, as specified.	Referred to Committee on E. & C.A. 2/24/11
2011	SB 348	Correa	This bill would, notwithstanding the above provisions, provide that any vote by mail ballot is timely cast if it is postmarked on or before election day and received by the voter's elections official no later than 6 days after election day.	Referred to Committee on E. & C.A. 2/24/11
2011	SB 802	Runner	This bill would additionally require that the identification envelope include the last 4 digits of the voter's California driver's license or identification card number or, if unavailable, the last 4 digits of the voter's social security number and a security flap to conceal the voter's information during mailing. The bill would require the elections official to verify the accuracy of that information before counting the vote. This bill would require that a vote by mail ballot of a member of the Armed Forces of the United States who is stationed outside of the United States be cast by election day and received by elections officials no later than 21 days after election day. This bill would also require a person who desires to vote to show specified proof of identity. The bill would authorize a person who does not have proof of identity to vote a provisional ballot after completing an affidavit under penalty of perjury that he or she is a registered voter. The bill would require the Department of Motor Vehicles to waive the fee for an identification card requested for satisfying the voter identification requirement.	From printer. May be acted upon on or after March 21. 2/19/11





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## Conclusion

### Findings

Whether by voter option or mandate, the number of people voting-by-mail is increasing. Vote-by-mail voting is a growing trend with states and local governments. However, as proponents continue to cite the benefit of increased turnout, vote-by-mail voting has not proven to substantially increase overall turnout.

Available evidence shows that all vote-by-mail elections decrease costs even if the savings are minimal. It is possible that we will see all vote-by-mail elections continue to grow in popularity as more jurisdictions look for ways to deal with increasing budget constraints.

Conducting all vote-by-mail elections has proven to be secure. There continues to be nothing more than small anecdotal cases of fraud around the country. None of these cases has had an impact large enough to affect any election. Election officials will continue to work to ensure the integrity of elections regardless of voting method.

Orange County voters are increasingly opting to vote-by-mail. As stated in our 2009 report, all vote-by-mail voting in California would mean a substantial portion of the County's current investment made in equipment would be lost. There is currently no market to sell the equipment domestically. It is unclear if there is demand outside of the United States (Although our vendor continues to monitor international demand). This becomes increasingly true with the growing number of states opting for an all vote-by-mail system.

Should a June statewide vote-by-mail election be called we are confident that we will be able to handle the increased capacity. Additional inserting equipment would need to be purchased to handle the increased output if we conducted all vote-by-mail elections on a consistent basis.





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## Appendix A. Text of Vote-by-Mail Legislation in West Virginia

### ARTICLE 3A. VOTE BY MAIL PILOT PROGRAM.

**§3-3A-1. Short title.** This article shall be known as the "West Virginia Vote By Mail Pilot Program".

**§3-3A-2. Vote by mail pilot program.**

This article establishes a two phase pilot project that will allow certain municipalities to vote by mail. Phase one authorizes Class IV municipalities to conduct only early voting for municipal elections by mail beginning with the municipal election of 2010. Phase two authorizes five municipalities in the state to conduct all voting by mail beginning with the primary election of 2011. The pilot project will permit registered and other qualified voters of the authorized municipalities to vote a ballot by mail during the pilot program period. The Class IV municipalities that choose to participate in phase one may conduct only the early voting for the municipal elections entirely by mail. The five municipalities selected for participation in phase two may conduct both the primary and general elections entirely by mail.

**§3-3A-3. Secretary of State Rulemaking.**

- (a) The Secretary of State is hereby directed to propose emergency and legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to implement phase one of the vote by mail pilot program. In addition to any other provisions the Secretary believes are necessary to provide for the effective, efficient and orderly administration of phase one of the vote by mail pilot program, the rules proposed by the Secretary shall provide for phase one municipal elections the requirements and procedures for conducting an election by mail including:
- (1) That a notice of early voting by mail will be mailed to each registered voter in the municipality no more than four weeks nor less than two weeks prior to the start of the early voting period. The notice may be included in any utility or service statement or invoice mailed to every household in the municipality or a postcard sent to all registered voters in the municipality;
  - (2) That each ballot packet shall consist of the actual ballot, instructions, a secrecy envelope and a ballot return envelope;
  - (3) That each ballot will be mailed with detailed instructions on how to mark the ballot, place it in the secrecy envelope and the ballot return envelope and how to sign the ballot return envelope, a warning that the ballot return envelope must be signed or the ballot will not be counted, a warning that signing someone else's ballot return envelope is illegal, an alternative procedure for any person who is unable to sign a ballot return envelope and a procedure for returning a spoiled ballot should the voter make a mistake or otherwise need a new ballot; and
  - (4) That each ballot must be mailed or brought to the municipal precinct by the close of the early voting period.
- (b) The Secretary of State is hereby directed to propose legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to implement the phase two vote by mail pilot program. In addition to any other provisions the Secretary believes are necessary to provide for the effective, efficient and orderly administration of phase two of the vote by mail pilot program, the rules proposed by the Secretary shall include:
- (1) Criteria for the selection of up to five municipalities to participate in the vote by mail pilot program;





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- (2) Procedures for conducting voting by mail including those specified in subsection (a) of this section;
  - (3) Requirements and criteria for the designation of places of deposit for the ballots cast in an election; and
  - (4) Dates and times the places of deposit must be open and the security requirements for the places of deposit. Places of deposit shall be open on the date of the election for a period of eight or more hours, but must be open until at least eight p.m., at a minimum.
- (c) Each municipality wishing to conduct early voting by mail shall adopt an ordinance expressing the municipality's intent and notifying the public of the changes in voting.
- (d) It is the duty of all officials designated to supervise and conduct the vote by mail program, other municipal officials, and all election commissioners and poll clerks to abide by the Secretary of State's rules, orders and instructions and to use the forms, lists and records prescribed by the Secretary of State.

**§3-3A-4. Authority to conduct voting by mail**

The voting by mail program is to be supervised and conducted by the municipal recorder or other officer authorized by charter or ordinance provisions to conduct voting for any election held entirely within the municipality. All other provisions of this article for conducting a municipal election shall apply.

**§3-3A-5. Termination of pilot project.**

The provisions of this article related to phase two of the pilot project shall terminate on January 1, 2014, unless sooner terminated, continued or reestablished.





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## Appendix B. Text of Vote-by-Mail Legislation in Montana

### Current Law

#### **13-19-104. Mail ballot elections not mandatory -- when authorized -- when prohibited -- when county election administrator conducts.**

- (1) Conducting elections by mail ballot is only one option available to local officials, and this chapter does not mandate that the procedure be used.
- (2) Except as provided in subsection (3), any election may be conducted by mail ballot.
- (3) The following elections may not be conducted by mail ballot:
  - (a) a regularly scheduled federal, state, or county election;
  - (b) a special federal or state election, unless authorized by the legislature; or
  - (c) a regularly scheduled or special election when another election in the political subdivision is taking place at the polls on the same day.
- (4) (a) Except as provided in subsection (4)(b), if more than one mail ballot election is being conducted in the political subdivision on the same day, the county election administrator shall conduct the elections.  
(b) The requirement that a county election administrator shall conduct more than one mail ballot election on the same day does not apply to a mail ballot school bond election conducted by the trustees of any two or more school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant to 20-3-361.

### Proposed Law

#### **HB 130**

**Section 11.** Section 13-19-104, MCA, is amended to read:

#### **"13-19-104. Mail ballot elections exception -- when county election administrator conducts.**

- (1) All elections, except those conducted under Title 20, chapter 20 (school elections), must be conducted by mail ballot.
- (2) Elections conducted by a school district clerk under Title 20, chapter 20, may be conducted under this chapter or as polling place elections.
- (3) (a) Except as provided in subsection (3)(b), if more than one mail ballot election is being conducted in the political subdivision on the same day, the county election administrator shall conduct the elections.  
(b) The requirement that a county election administrator shall conduct more than one mail ballot election on the same day does not apply to a mail ballot school bond election conducted by the trustees of any two or more school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant to 20-3-361."





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## Appendix C. Text of Vote-by-Mail Legislation in Colorado

### Current Law

#### 1-7.5-104. Mail ballot elections - optional.

(1) If the governing board of any political subdivision determines that an election shall be by mail ballot, the designated election official for the political subdivision shall conduct any election for the political subdivision by mail ballot under the supervision of the secretary of state and shall be subject to rules which shall be promulgated by the secretary of state.

(2) Notwithstanding the provisions of subsection (1) of this section, a mail ballot election shall not be held for:

(a) Elections or recall elections that involve partisan candidates, except for primary elections;

(b) Elections held in conjunction with, or on the same day as, a primary or congressional vacancy election, unless the primary election is conducted as a mail ballot election.

(3) Notwithstanding any other provision of law to the contrary concerning the type of election to be held, elections by mail ballot shall be conducted as provided in this article.





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## Appendix D. Text of Vote-by-Mail Legislation in Hawaii

### Current Law

**Elections Code §15-4 Request for absentee ballot.** (a) Any person registered to vote may request an absentee ballot in person or in writing from the clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. Any mailed requests for an absentee ballot shall be mailed by the person directly to the clerk. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules adopted by the chief election officer.

The request shall include information such as the person's social security number, date of birth, and the address under which the person is registered to vote. The request shall also include the address to which the person wishes the requested ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary; provided the person so indicates in the person's request.

Subsequent to the closing of registration for each election, the clerk may mail a request form for an absentee ballot to each voter in a remote area who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form.

(b) Notwithstanding subsection (a), the clerk shall mail an absentee ballot for each primary, special primary, special, general, and special general election to each registered voter who resides in the county of Kalawao. The chief election officer may adopt rules to carry out this subsection.

(c) When a registered voter requests an absentee ballot, the voter also may include an additional request to receive absentee ballots permanently. After receiving a request for permanent absentee voter status, the clerk shall mail to the voter who requested permanent absentee voter status an absentee ballot for all subsequent elections conducted in that precinct.

(d) The chief election officer shall inform voters of the option of applying for permanent absentee voter status and shall provide any necessary form to request the permanent absentee ballot option to any registered voter requesting an absentee ballot.

(e) A permanent absentee voter shall be responsible for informing the clerk of any changes to personal information, including changes to the voter's forwarding address.

(f) A voter's permanent absentee voter status shall be terminated if any of the following conditions apply:

- (1) The voter requests in writing that such status be terminated;
- (2) The voter dies, loses voting rights, registers to vote in another jurisdiction, or is otherwise disqualified from voting;
- (3) The voter's absentee ballot, voter notification postcard, or any other election mail is returned to the clerk as undeliverable for any reason; or
- (4) The voter does not return a voter ballot by 6:00 p.m. election day in both the primary and general election of an election year.

(g) If a voter's permanent absentee voter status has been terminated due to one or more of the conditions specified in subsection (f), the voter shall be responsible for again requesting permanent absentee status as specified in subsection (c). [L 1975, c 36, pt of §3; am L 1980, c 248, §1(b); am L 1981, c 29, §1(2); gen ch 1985; am L 1986, c 305, §5; am L 2004, c 100, §2; am L Sp 2008, c 4, §1]





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**Elections Code §11-91.5** Federal, state, and county elections by mail. (a) Any federal, state, or county election held other than on the date of a regularly scheduled primary or general election may be conducted by mail.

(b) The chief election officer shall determine whether a federal or state election, other than a regularly scheduled primary or general election, may be conducted by mail or at polling places.

(c) The county clerk shall determine whether a county election, held other than on the date of a regularly scheduled primary or general election, may be conducted by mail or at polling places. An election by mail in the county shall be under the supervision of the county clerk.

(d) The chief election officer shall adopt rules pursuant to chapter 91 to provide for uniformity in the conduct of federal, state, and county elections by mail. [L 2003, c 37, §1]

