



September 11, 2024

The Honorable Gavin Newsom
Governor
State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

RE: California Voter Foundation and Verified Voting Urge Veto of Assembly Bill 2159

Dear Governor Newsom,

We write to request a veto for AB 2159, which would allow electronic return of voted ballots for homeowners' associations. The bill authorizes the use of electronic ballot return technology that has not been approved by any State of California entity, permits unregulated vendors to oversee the technology, and relies on technology that has been deemed as "high risk" by multiple federal agencies, even with security safeguards and cyber precautions in place. The Federal Bureau of Investigation (FBI), the Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA), the U.S. Election Assistance Commission (EAC), and the National Institute for Standards and Technology (NIST) warn that **electronic ballot return "faces significant security risks to the confidentiality, integrity, and availability of voted ballots,"** and explicitly recommends paper ballots.¹ Furthermore, ballots cast over the internet can be intercepted, deleted and altered at scale—and can therefore change election results.

The recent revelation that San Francisco's influential Harvey Milk Democratic Club endorsement election was compromised through online voting hacking provides a stunning example of the risks associated with online voting schemes and the embarrassment, confusion and distrust such schemes breed when they fail.²

¹ U.S. Cybersecurity and Infrastructure Security Agency, Federal Bureau of Investigation, National Institute of Standards and Technology and the U.S. Election Assistance Commission, Risk Management for Electronic Ballot Delivery, Marking, and Return (2020/2024), available at <https://www.cisa.gov/resources-tools/resources/risk-management-electronic-ballot-delivery-marking-and-return>.

² *San Francisco Chronicle*, "S.F.'s Harvey Milk LGBTQ Democratic Club, finding fraud in its endorsements, votes anew," September 7, 2024.

<https://www.sfchronicle.com/politics/article/harvey-milk-lgbtq-democratic-club-19745676.php>.

Signing this measure into law could lead to catastrophic consequences, as it may mislead California (HOA) voters into believing that this voting method is secure, despite overwhelming consensus within the scientific community and substantial evidence pointing to significant risks and insecurities.³ This bill would spread unapproved, insecure technology that cannot guarantee voter privacy, operated by unregulated vendors to elect HOA board members who could place liens and foreclose on homes. Disregarding the existing requirements for reliable ballots in favor of an unauditible, non-recountable system weakens California's election standards and leaves HOA voters unprotected.

Currently, all California voters, including those in homeowners' associations, have the right to a voter-verified paper ballot, which can be recounted in case of questions about the election. The paper ballot provides a durable record of voter intent, unlike a purely digital record, because it is the only durable record a voter can physically examine. A digital representation on a screen can change, be modified or corrupted in capture, or be lost irretrievably. A digital representation of voter intent cannot be assured of arriving at its destination intact. This physical record of voter intent, therefore, is a standard in all California elections, and there's no good reason to sink beneath that baseline if we are to continue to have reliable elections.

If Internet voting, or electronic secret ballot (which is a misnomer because there is **no such thing as an electronic secret ballot**), is enabled for this purpose, it eliminates that durable copy of voter intent, which the voters had the opportunity to verify. That means everyone must simply trust that the vendor's system worked the way it was supposed to and has not been compromised, but we have no evidence to support that trust. That is corrosive to confidence in the HOA election itself.

We rarely weigh in on non-governmental election systems. As a policy matter affecting so many California residents and voters, and as HOA elections are quasi-governmental, this is an area that blurs the line. Requirements for reliable ballots exist in statute, and it would have negative repercussions to eliminate that more reliable system for one that provides zero auditability or recountability. This bill would lead to a weakening of California's election standards, and leaves HOA voters unprotected. Please veto AB 2159. Thank you.

Respectfully,

Kim Alexander
President & Founder
California Voter Foundation

Pamela Smith
President & CEO
Verified Voting

³ See <https://verifiedvoting.org/internet-voting-resources/>.