

SB 61 - The New Elections and Ballot Measure Maize

SB 61 imposes various requirements on elections concerning certain matters. Specifically, associations must utilize secret ballots and adopt strict election procedures when members vote on specified matters. Of significance, among other things, is the requirement to use secret ballots when voting on the following matters:

- Election of directors
- Approval of assessments
- Assessment increases
- Governing document amendments
- Grants of exclusive use of common area to members

The secret ballot requirement is intended to maintain the confidentiality of the voter. To that end, SB 61

requires associations to do the following:

- Distribute a ballot, two pre-addressed envelopes and instructions at least 30 days before the election/vote
- Voters may not be identified by name, address or lot, unit or parcel number, and their vote must be confidential, i.e., anonymous
- Publicize the results within 15 days of the vote

“Associations will now need to budget for the additional time and, especially, money that will be necessary to successfully conduct elections and ballot measures while at the same time comply with the new law.”

The ballot may not be signed by the voter, but is instead inserted into

a sealed envelop. The envelop is inserted into another sealed envelop on which the voter must print or sign his/her name in the upper left hand corner and return same to the association.

The new law also requires associations to adopt and utilize very detailed, specified election procedures. For instance, the election procedures

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must:

- Give all candidates equal access to association media, print, etc.
- Give equal access to meeting space to campaign, at no cost
- Specify qualifications for candidates and set forth reasonable nomination procedures
- Specify the qualifications for voting
- Specify a method for selecting inspectors of election

Lastly, associations must utilize inspectors of election, which must be one or three individuals who are completely disinterested in the election/vote. For instance, inspectors may be members of the association (not related to a candidate or incumbent director) or an accountant, notary public or volunteer poll worker.

The inspectors of election must also follow very detailed, specified procedures. For example, inspectors must:

- Determine the number of members entitled to vote
- Determine the authenticity, validity and effect of proxies
- Receive and maintain custody of ballots
- Hear and determine all challenges and questions
- Count/tabulate the votes
- Determine when the polls shall open and close
- Determine the result of the election

As you can see, elections and certain ballot measures will now be very complex. Associations will now need to budget for the additional time and, especially, money that will be necessary to successfully conduct elections and ballot measures and comply with the new law.