

BELL, McANDREWS & HILTACHK, LLP
ATTORNEYS AND COUNSELORS AT LAW

455 CAPITOL MALL, SUITE 600
SACRAMENTO, CA 95814

(916) 442-7757
FAX (916) 442-7759

May 27, 2021

Sent Electronically

Robbie Anderson
California Secretary of State
1500 11th Street, 5th Floor
Sacramento, CA 95841
aanderso@sos.ca.gov

Raj Bathla
California Secretary of State
1500 11th St., 5th Floor
Sacramento, CA 95814
rbathla@sos.ca.gov

Re: Proposed Modification of Secretary of State Regulation 20136 Concerning
Vote-by-Mail Ballot Drop Boxes

Dear Mr. Anderson and Mr. Bathla:

1. The California Republican Party (“the Party”) supports the thrust of the Secretary’s efforts to make permanent the emergency Vote-by-Mail Ballot Drop Box regulations enacted last year, but strongly opposes the last minute modifications proposed to (A) loosen the requirement that all ballots deposited in Vote-by-Mail Ballot Drop Boxes be retrieved by election officials by 11:59 PM on Election Day, and (B) shield from appropriate public records disclosure the locations of ballot drop boxes that were not collected by that closing date.
2. The Party believes the objectionable item B would not be necessary if section 20136(f)(1) were not loosened but instead continued to require county election officials to retrieve all ballots from official drop boxes by 11:59 PM on Election Day.
3. The Party agrees with the Secretary’s initial statement of reasons published in connection with this regulatory project — that requiring retrieval of all ballots from drop boxes by the close of Election Day will best “ensure those ballots are safe and can be processed for counting and reporting” in a timely fashion. We understand this approach has met resistance from some county election officials based on workload concerns, despite the accommodation in the Regulation extending the retrieval interval to 48-hours, from 24-hours, prior to Election Day. However, security of the ballots is of paramount importance, and leaving unattended drop boxes with unretrieved ballots in them after the close of Election Day poses a significant potential

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threat to the integrity of California elections. Media across the nation covered an official ballot drop box being torched in California during the 2020 election, a result which we are sure the Secretary agrees is intolerable.

4. These revisions to Regulation 20136 have the potential to disenfranchise voters with no recourse. If a drop box is vandalized or ballots are mishandled prior to an election, the voter has an opportunity to request another ballot and vote in that election. However, once 8 PM on election night has tolled, a voter is prevented from participating in the election if the ballot is damaged or misplaced before arriving at the elections office. The safe handling and delivery of every voter's ballot to the counting location as soon as possible after receipt from the voter should be the highest priority of every elections official, regardless of the burden on the administrator.

5. The Party strongly opposes the prophylactic requirement in modified regulation 20136, sub. (f)(3), to exempt from even limited public disclosure the identity and locations of ballot drop boxes containing voted mail ballots that the election officials are not able to pick up by the Election Day deadline. Based on a theory that "bad actors" could take advantage of this information for malign purposes, the proposed censorship affects the ability and cuts off the access to such information of recognized "good actors" such as the political parties, good government election watchdog and election integrity observers, which have a vital and important role in the election monitoring efforts. (See, e.g., Elections Code §§ 15100 [voting systems logic and accuracy testing], 15104 [vote-by-mail ballot processing observation].) There is no justifiable reason to exclude providing such information to recognized "good actors" which acts as a check on the system performance of election officials and prevents a coverup of possible malfeasance that could affect the outcomes of California elections. Indeed, this proposal piles bad policy on top of bad policy – the premise that the location of these boxes should be kept secret to protect them from tampering demonstrates that the best policy is to avoid this scenario entirely, by delivering the ballots to an elections office on election night.

Thank you for this opportunity to comment and to oppose the particular most-recent proposed revisions to Regulation 20136.

Very truly yours,



Ashlee N. Titus
General Counsel to
California Republican Party