



November 6, 2020

California 2020 General Election Results and Analysis

Friends and Colleagues,

California voters are eagerly awaiting the results of what can be characterized as one of the most consequential elections in modern history. In the midst of the global COVID-19 pandemic, California residents have continued to endure simultaneous crises including devastating wildfires, rising homelessness, lack of affordable housing, racial injustice and climate change impacts, to name a few—all of which were top of mind heading into the election.

The latest statistics from the California secretary of state show that more state voters registered to vote in the 2020 election than in the past 80 years—22 million registered voters (about 2.6 million more than in the 2016 presidential election). Additionally, according to statewide voter data, California is on course to set modern-day records for the number of votes cast and voter turnout.

California remains a blue state and President Trump's potential reelection spurred hyper-partisanship and momentum to turn out the Democratic vote—providing more opportunity for voters to weigh in on the various congressional, state senate and assembly seats and on the major state and local measures on the ballot.

Ballots are still being processed, with an estimated 4.5 million left to count. County elections officials must report their final results to the secretary of state for the presidential contest by Dec. 1, all other state and federal contests by Dec. 4, and the secretary of state will certify the results on Dec. 11, 2020. Even without the final numbers, it is clear that voter turnout was up significantly from the 2016 election where 75.27% of the electorate participated. Of the ballots tallied thus far, Democrats cast 7,729,862 votes, followed by Republicans casting 3,900,809 votes, and No Party Preference voters casting 218, 685 votes.

The main focus in California's election is just how liberal the Legislature will become, with Republicans fighting hard to hold onto their existing seats. In addition, statewide initiatives received a significant amount of attention and proponents and opponents poured record spending into their respective campaigns. California did not have any statewide constitutional officers or any U.S. Senate races on the ballot in 2020.

Below we will provide an overview of election results and the implications this will have on the makeup of the state Legislature and the balance of power in the state's Capitol. We stand ready to help navigate the many new opportunities and challenges in the 2021-22 Legislative Session that begins next month.

Kind Regards,

Rosanna Carvacho
Shareholder

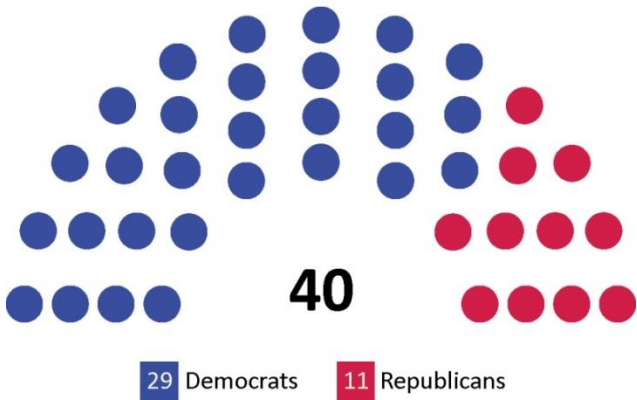
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Election Results-State Legislature

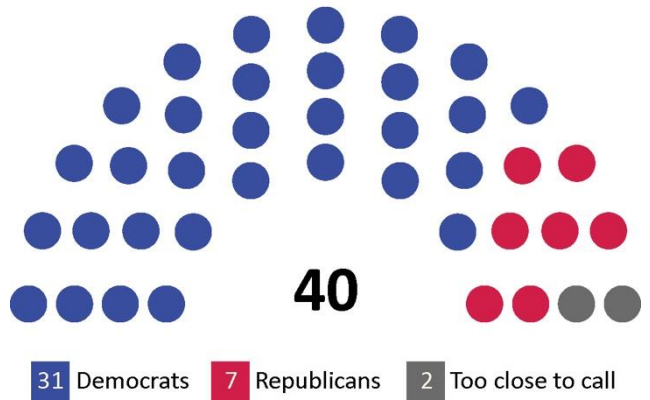
Current Legislative Makeup

California State Senate

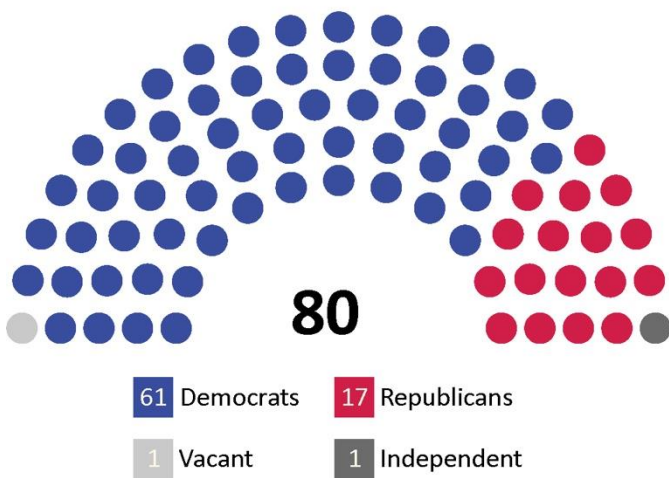


Projected 2021-22 Legislative Makeup

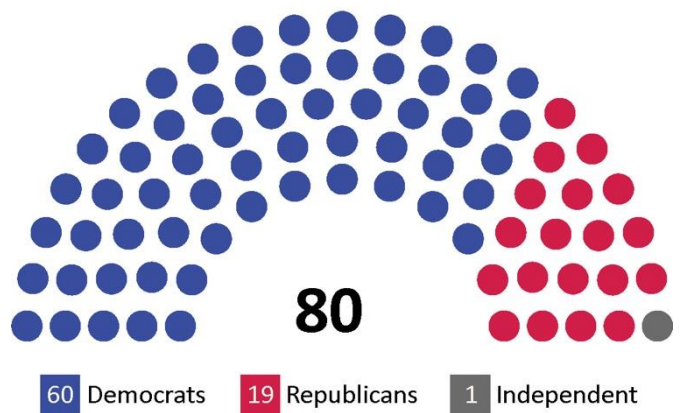
California State Senate



California Assembly



California Assembly



State Legislature – Senate

Senate Democrats went into the election with control of the upper house by two seats above a supermajority, holding 29 of the 40 seats and Republicans holding the remaining 11 seats. We project that given the current returns, Senate Democrats will pick up a minimum of 2 additional seats, bringing their supermajority up to 31 seats, but it could go as high as 33.

Every two years, half of the Senate seats are up for election. In 2020, the odd-numbered Senate Districts were on the ballot. There were four key races, outlined below, all four of which are seats currently held by Republicans that the Democrats were trying to flip.

Fairly unique to California is two members of the same party on the general election ballot. In the Senate there were three Democrat-on-Democrat races with two incumbents being challenged but both holding onto their places in the upper house. The most hotly contested was in San Francisco where Sen. Wiener had a challenger on the left—claiming that he was not liberal enough for the city.

There was also a Democrat-on-Democrat race for an open Senate seat in Santa Clara County where a county supervisor, Dave Cortese faced off against Ann Ravel, the former chair of the Federal Elections Commission appointed by President Obama. Cortese, who was strongly backed by unions, has a comfortable lead in this race.

Key Races:

- **Too close to call:** SD 21 – Sen. Scott Wilk (R) v. Kipp Mueller (D) – As of Thursday evening, incumbent Sen. Wilk has a very small lead over challenger Mueller.
- **Too close to call:** SD 23 – Rosilicie Ochoa Bogh (R) v. Abigail Medina (D) – Over the last couple of days the frontrunner in this race has shifted back and forth between the two candidates and still remains too close to call.
- **Going blue:** SD 29 – Sen. Ling Ling Chang (R) v. former **Sen. Josh Newman (D)** – As of Thursday evening, former Sen. Newman remains on track to reclaim this seat that he lost in a recall election in 2018.
- **Going blue:** SD 37 – Sen. John Moorlach (R) v. **Dave Min (D)** – As of Thursday evening, Democratic challenger, Dave Min is looking to oust Republican Sen. John Moorlach for another Democratic pickup.

At this point, the Democrats in the Senate have secured a pickup of two of the four seats that they were fighting for with the final two still too close to call. The Democratic majority will grow, at a minimum, from 29 to 31, if not all the way up to 33 out of 40 seats.

State Legislature – Assembly

Assembly Democrats also went into the election with a large supermajority in the lower house. Assembly Democrats currently hold 61 of the 80 seats with one Independent, one vacancy and Republicans holding the remaining 17 seats.

Unlike the Senate, all Assembly seats are up for election every two years; therefore, all 80 seats were on the ballot this year. However, just like the Senate, there are only a handful of Assembly Districts that were in play. Those key races are outlined below.

Despite Assembly Democrats believing they had a change to flip four Republican Districts, it is currently looking as though the makeup of the Assembly will not change and the Republicans may hold onto all of the 17 seats they had going into the election, plus filling the Republican vacancy, and picking up a seat currently held by a Democrat, bringing their caucus up to 19.

Just like in the Senate, the Assembly had numerous same-party fights but not just Democrat-on-Democrat; there were also Republican-on-Republican races.

Of the 11 Democrat-on-Democrat races, nine of them were incumbents being challenged by another Democrat—all incumbents were reelected. The remaining two races were to fill seats held by Democrats who were running for other offices, so no incumbent was running in these races, but this will not impact the makeup of the Democratic Caucus.

In addition, there were two Republican-on-Republican races, one race to hold onto a seat held by a Republican running for Congress, so this does not impact the makeup of the Republican Caucus. However, the other Republican-on-Republican race was to take back a seat that they lost in 2018 to Democratic Assemblymember Christy Smith. Assemblymember Smith did not seek reelection because she is running for Congress. This opened up the primary election to five Democrats and two Republicans, which led to two Republicans securing the top two spots in order to appear on the general election ballot. This was a big loss to Democrats in the primary but has been known since March.

Also in the primary, we saw two sitting Orange County Republicans lose their bid for reelection having been unable to secure their spot in the general election by being one of the top two vote-getters. Assemblymember Tyler Diep, attacked for not being conservative enough, lost the primary to former Sen. Janet Nguyen, who previously lost her reelection bid to the state Senate in 2018. Democrats saw the lack of an incumbent as an opportunity to potentially pick up this seat but were not successful. Additionally, Assemblymember Bill Brough, who was facing allegations of sexual harassment and did not receive the Republican Party endorsement, failed to advance to the general election. The Republican candidate, Laurie Davies, has easily won in this Republican district.

The Republican Party and its internal struggles as to the future of the party, in a very liberal state, remains top of mind. The challenge of incumbent Republican legislators, as outlined above, is one example. Additionally, at the beginning of 2019, moderate Assemblymember Brian Maienschein, who had just been reelected to represent his San Diego district as a Republican, switched parties and became a Democrat, increasing the Democratic majority from 59 to 60 of the 80 seats. Also, in 2019, former Assembly Republican Leader Chad Mayes changed parties and became an Independent after being ousted as Republican leader for working with Democrats. The Republican Party put up a candidate to challenge Assemblymember Maienschein, a Democrat, and Assemblymember Mayes, running as an Independent; however, both were easily reelected.

Key Races:

- **Staying Red:** AD 35 – **Assemblymember Jordan Cunningham (R)** v. Dawn Addis (D) – As of Thursday evening, incumbent Assemblymember Cunningham has about a 6,500 vote lead over challenger Dawn Addis.

- **Staying Red:** AD 55 – **Assemblymember Steven Chen (R)** v. Andrew Rodriguez (D) – As of Thursday evening, Assemblymember Chen is on track to keep his seat.
- **Staying Red:** AD 68 – **Assemblymember Steven Choi (R)** v. Melissa Fox (D) – As of Thursday evening, Assemblymember Choi is on track to keep his seat.
- **Staying Red:** AD 72 – **former Sen. Janet Nguyen (R)** v. Diedre Nguyen (D) – As of Thursday evening, former Sen. Nguyen is on track to come back to Sacramento to serve in the lower house.

At this point it looks like Assembly Democrats will not pick up any seats and will lose one seat, as explained above. This brings the makeup of the Assembly to 60 Democrats, 19 Republicans and one Independent.

Legislative Leadership

The 2020 general election did not change the party control of either house of the Legislature. Therefore, there will not be an immediate change in legislative leadership. If there is any change in leadership, it will occur at a later date.

As can be expected when there are losses in elections, leadership positions are often at risk. Given that the Senate Republicans are currently looking to lose at least two, maybe four seats, a change in leadership would not be surprising.

In the Assembly, the speaker was not successful in picking up any new seats and the Republican leader was able to hold onto all the existing seats and pick up one Democratic seat, which may create issues for the current speaker given the massive Democratic turnout this year.

Statewide Ballot Measures

In this election, there were 12 statewide initiatives on the ballot for California voters to weigh in on. Of those 12 initiatives, there were five constitutional amendments, four of which were placed on the ballot directly by the legislature; six statutory changes put on the ballot through the petition signature process; and one referendum of a law passed by the legislature in 2018.

As of Nov. 5, 2020, at 9:30p.m. PST, the outcomes of the 12 initiatives are listed below. There are three initiatives that are too close to call given the estimated 4.5 million additional ballots left to be counted.

Title	Description	Outcome (as of 9:30pm PST)
Proposition 14	Authorizes the issuance of \$5.5 billion in state bonds for continued stem cell research. In 2004 voters approved the issuance of \$3 billion in state bonds for the same purpose.	Too Close to Call, 51%-49% For: 6,213,571 Against: 5,962,054
Proposition 15	Requires commercial and industrial properties, valued at more than \$3 million, to be taxed based on market value and dedicates revenue to local governments and schools. This is a change to Proposition 13, which was passed by voters in 1978 and limits property tax	Too Close to Call, 48.3%-51.7% For: 5,976,952 Against: 6,402,152

Title	Description	Outcome (as of 9:30pm PST)
	increases by taxing properties based on original purchase price, not current market value.	
Proposition 16	Permits government decision-making policies to consider race, sex, color, ethnicity or national origin in order to address diversity by repealing Proposition 209 from 1996 that prohibited such policies.	Failed, 56.1%-43.9% For: 5,364,826 Against: 6,850,722
Proposition 17	Restores the right to vote to people convicted of a felony who have completed their prison term and are currently on parole.	Passed, 59%-41% For: 7,286,578 Against: 5,056,217
Proposition 18	Allows 17-year-olds to vote in primary and special elections if they will turn 18 by the next general election.	Failed, 55.2%-44.8% For: 5,547,256 Against: 6,821,523
Proposition 19	Allows homeowners who are 55 or older, disabled or wildfire or disaster victims to purchase a new home and keep their property tax payment at the same level—this expands an existing program that is currently only available in a few counties. Proposition 19 also makes changes to the taxation of properties transferred from a parent to an adult child.	Too Close to Call, 51.4%-48.6% For: 6,230,802 Against: 5,893,951
Proposition 20	Restricts parole for certain offenses currently considered to be nonviolent and allows for felony sentences for some offenses currently treated only as misdemeanors. Would also expand the collection of DNA samples from adults convicted of certain misdemeanors.	Failed, 62.3%-37.7% For: 4,554,519 Against: 7,525,799
Proposition 21	Expands local governments' authority to enact rent control on residential properties over 15 years old.	Failed, 59.7%-40.3% For: 4,920,669 Against: 7,296,601
Proposition 22	Classifies app-based transportation and delivery drivers as "independent contractors" instead of "employees," providing specific rules for app-based drivers that do not apply to other business sectors.	Passed, 58.4%-41.6% For: 7,174,499 Against: 5,114,037
Proposition 23	Requires a physician, nurse practitioner or physician assistant to be on-site at a kidney dialysis clinic during treatment, and prohibits clinics from reducing services without state approval and from refusing to treat patients based on payment source.	Failed, 64%-36% For: 4,398,601 Against: 7,808,157

Title	Description	Outcome (as of 9:30pm PST)
Proposition 24	Amends the California Consumer Privacy Act (CCPA) that went into effect this year. Specifically, Proposition 24 permits consumers to: prevent businesses from sharing personal information, correct inaccurate personal information, and limit businesses' use of "sensitive personal information," including precise geolocation, race, ethnicity and health information and establishes the California Privacy Protection Agency to enforce the CCPA.	Passed, 56%-44% For: 6,775,602 Against: 5,315,324
Proposition 25	Eliminates cash bail and instead the release of defendants awaiting trial is determined by assessed risk of committing another crime or not appearing in court if released.	Failed, 55.6%-44.4% For: 5,347,418 Against: 6,684,848

This document is intended to provide you with general information regarding outcomes from the 2020 election in California. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.