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How to Adopt Electronic Voting for Your HOA

A California board guide under the Davis-Stirling Act

Since January 1, 2025, a California HOA board can adopt electronic secret ballots with a single rule change: no membership vote, no CC&R amendment. This guide walks a board through the decision, the statute, and the calendar, in the order the work actually happens.

Inside

- What changed, and which votes can go electronic
- The requirements, in plain English, with the Civil Code section for each
- A twelve-step adoption process and a six-month calendar worked backward from election day
- Opt-outs, email addresses and the voting list
- Questions to ask an inspector of elections and a voting platform
- Sample election-rule language for your attorney

October 2026 · Civil Code §§4040, 4360, 5105, 5110, 5115, 5120, 5125, 5260, 5310 as amended by AB 2159

What changed on January 1, 2025

Your board can now adopt an election rule that lets members vote by electronic secret ballot. No membership vote is required, and no change to the CC&Rs or bylaws. AB 2159 added Civil Code §5105(i), and it applies even where older governing documents call for paper-only ballots.

The decision is easy. The calendar is not: the statute builds in a runway of at least 120 days before your first electronic election, so most boards need about six months from first conversation to results.

WHY BOARDS ARE SWITCHING

- **Quorum.** A member who votes electronically counts as present at the meeting (§5105(i)). A failed quorum is the most expensive thing that happens in an HOA election: a second meeting, a second mailing, a second inspector invoice.
- **Cost.** Paper ballots and double envelopes go only to members who opt out or who have no email address on file (§5115(c)). Everyone else votes from a link.
- **Turnout.** Members vote from a phone in a few minutes instead of finding a stamp and a mailbox.
- **Amendment votes.** When members vote on a CC&R or bylaw amendment, the text of the amendment can be delivered electronically to electronic voters (§5115(g)(2)). Until 2025 a full printed copy went out with every ballot.

One thing did not change. Votes on regular or special assessments must still be conducted by paper secret ballot.

CAN YOUR HOA VOTE ELECTRONICALLY?

Almost certainly yes. Section 5105(i) overrides governing-document language that requires paper ballots, so the only questions are what you are voting on and whether you have an independent inspector.

VOTE	ELECTRONIC BALLOT ALLOWED?	NOTE
Election of directors	Yes	The most common use
Recall of directors	Yes	
Amendment of CC&Rs or bylaws	Yes	Amendment text may be sent electronically to electronic voters (§5115(g)(2))
Grant of exclusive use of common area	Yes	
Regular or special assessment approval	No	Paper secret ballot only (§5105(i))

Two things still apply to every election, electronic or not:

- An independent inspector of elections must conduct it (§5110). Your management company, attorney, or any other paid vendor of the association cannot serve as inspector (§5110(b)). The inspector, not the board or manager, operates the electronic voting system (§5110(c)(4)).
- The election rules cannot be amended within 90 days of an election (§5105(h)). If your annual meeting is less than four months away, plan electronic voting for the following one.

If your bylaws or CC&Rs still describe paper-only balloting, the rule change is enough to proceed. Many attorneys suggest conforming the governing documents the next time you amend them, to avoid confusing members.

What the law requires

Every requirement below comes from Civil Code §§5105, 5110, 5115, 5120 and 5260 as amended by AB 2159. The board owns the first four rows; the inspector owns the rest.

REQUIREMENT	WHAT IT MEANS FOR YOUR HOA	STATUTE
Amend the election rules	Board adopts an electronic-voting rule through the normal operating-rule process: general notice of the proposed rule, 28-day member comment period, adoption at an open board meeting, notice of adoption within 15 days. Must be done at least 90 days before the election.	§4360 §5105(h) §5105(i)
Opt-out (or opt-in) right	Members may change their voting method in either direction, electronic to written or written to electronic. The deadline is no later than 90 days before the election, and the request must be in writing. The rule may make electronic the default with an opt-out to paper, or paper the default with an opt-in to electronic.	§5105(i)(1)(A) §5260(g)
120-day voting-method notice	At least 30 days before the opt-out deadline, send each member individual notice stating: their current voting method, the email address on file for electronic voting, that they must opt out to receive a paper ballot, how to opt out, and the deadline. Individual delivery means first-class mail or, for members who have consented, email.	§5105(i)(4) §4040
Valid email address	A member who votes electronically must give the association a valid email address. A member with no email on file when ballots are distributed gets a written ballot.	§5105(i)(1)(E) §5105(i)(7)
Voting list	The association keeps a list showing which members vote electronically and which on paper. The opt-out procedure must be described in the annual policy statement. Members may verify their own entry at least 30 days before ballots go out, and the inspector corrects reported errors within two business days.	§5105(a)(7) §5105(i)(1)(D) §5310
Same ballot content	The electronic ballot and the paper ballot must list the same items.	§5105(i)(1)
No floor nominations	Candidates may not be nominated from the floor of a membership meeting once electronic voting is in use.	§5105(i)(1)(F)
30-day pre-ballot general notice	The usual notice of candidates, deadline and count meeting must also state the date and time by which electronic ballots are due and preliminary instructions for voting electronically.	§5115(b)
30-day electronic ballot notice	At least 30 days before the election, each electronic voter receives individual notice with instructions on how to access the voting system and how to vote. It may be delivered to the email address the member designated.	§5105(i)(3)
Device check	Each electronic voter must have a way to confirm, at least 30 days before the voting deadline, that their device can reach the voting system.	§5110(c)(4)(A)
System standards	The inspector must ensure the system authenticates each member, keeps the ballot secret and unaltered in transit, sends each voter a receipt, permanently separates the voter's identity from the ballot, and stores ballots for recount and inspection.	§5110(c)(4)(B)
Irrevocable vote	An electronic ballot is effective when transmitted to the inspector's system and cannot be changed or withdrawn.	§5105(i)
Quorum	A member who votes electronically is counted as present at the meeting. Once quorum is established that way, the members may not take a substantive vote on anything that was not on the electronic ballot.	§5105(i)
Tally secrecy	No one, including a manager or member, may open or review the electronic tally before the time and place the ballots are counted.	§5120(c)

Step by step

Twelve steps, in order. Steps 1 through 7 are the board's; the inspector takes over at step 8. Start about six months before the election.

- 1 Pick the election.** Choose a director election, recall, or amendment vote. Do not start with an assessment vote; those stay on paper.
- 2 Decide opt-out or opt-in.** Opt-out makes electronic voting the default and paper the exception. Opt-in does the reverse. Opt-out delivers the quorum and cost benefits; opt-in is gentler for a community that is nervous about the change. Most associations choose opt-out.
- 3 Have counsel draft the rule amendment.** Use the sample language later in this guide as a starting point. The rule must cover the right to change voting method and its deadline, the email requirement, the voting list, identical ballot content, the voting-method notice, and the ban on floor nominations.
- 4 Run the §4360 process.** Give general notice of the proposed rule with a 28-day comment period, adopt it at an open board meeting, and give general notice of adoption within 15 days. Adoption must land at least 90 days before the election; aim for 120 or more so the voting-method notice can cite the adopted rule.
- 5 Select an independent inspector of elections.** The inspector cannot be your manager, attorney, or any vendor the association pays for other work. Confirm in writing that the inspector will operate the electronic system and meet §5110(c)(4).
- 6 Choose the voting system.** Use the questions later in this guide. The inspector may bring a platform, or you may select one and the inspector operates it.
- 7 Collect and clean email addresses.** Ask every member for an email address now and tell them why. Update the annual policy statement to describe the opt-out procedure.
- 8 Send the 120-day voting-method notice.** Individual notice to every member: current voting method, email on file, how to opt out, and the opt-out deadline.
- 9 Close the opt-out window and build the voting list.** Log every written opt-out request. The list shows who votes electronically and who votes on paper. Members may check their own entry at least 30 days before ballots go out.
- 10 Give the 30-day pre-ballot notice.** The standard notice of candidates, deadline and count meeting, plus the electronic ballot deadline and preliminary voting instructions. Nomination notice goes out at least 30 days before the nomination deadline, earlier in the calendar.
- 11 Distribute ballots.** At least 30 days before the voting deadline, the inspector emails electronic voters their access instructions and mails paper ballots with double envelopes to everyone on the paper list. The device check must be available from this point.
- 12 Count and report.** The inspector tabulates at the noticed meeting; the electronic tally stays sealed until then. Results go to the members by general notice within 15 days (§5120). Ballots, paper and electronic, remain in the inspector's custody for one year (§5125).

Your six-month calendar

Count backward from election day and the start date falls out on its own. Nothing after the 90-day mark can be compressed, and the rule must be adopted before the 120-day notice goes out.

Six months from first draft to election day. Example runway for an election held April 15, 2027.

Days in parentheses are days before election day.



The 28-day comment period and the board meeting sit in front of the 120-day notice, which is what pushes the first conversation to roughly six months out. Swap in your own election date and the gaps stay the same.

DAYS BEFORE ELECTION	WHAT HAPPENS	WHO
~180	Counsel drafts the rule; board shortlists an inspector and a platform	Board
~150	General notice of the proposed rule; 28-day member comment period opens	Board / manager
~120 or more	Board adopts the rule at an open meeting; voting-method notice goes to every member	Board / manager
90	Opt-out deadline. Last day the election rules may be amended (§5105(h))	Members / manager
60	Pre-ballot general notice: candidates, deadlines, count meeting, electronic instructions	Inspector
30	Ballots distributed: email link to electronic voters, paper to the opt-out list; device check live	Inspector
0	Voting closes; inspector counts at the noticed meeting	Inspector
+15	Results reported to members by general notice (§5120)	Inspector / board

Opt-outs, email addresses and the voting list

Every electronic election is a hybrid election. Some members will vote on paper, and the association must know exactly who they are before ballots go out.

Who gets a paper ballot. Under an opt-out rule, paper goes to two groups: members who delivered a written opt-out request by the deadline, and members for whom the association has no email address. Everyone else receives the electronic ballot. Under an opt-in rule, paper goes to everyone who did not opt in.

Written means written. An opt-out request is effective only if delivered to the association in writing (§5260(g)). A phone call to the manager does not count. Tell members in the voting-method notice exactly where to send it: a mailing address and an email address.

The deadline is firm. The opt-out deadline is no later than 90 days before the election. A member who misses it votes electronically for that election.

Email addresses. A member voting electronically must provide a valid email address (§5105(i)(1)(E)). Collect them early, confirm them in the voting-method notice, and keep them with the membership list. A member whose address is missing or dead when ballots go out gets a written ballot by mail (§5105(i)(7)), which is why the 120-day notice is the moment to confirm every address, not day 30.

The voting list. The association maintains a list identifying which members vote electronically and which vote on paper. Members may verify their own entry at least 30 days before ballots are distributed, and the inspector corrects reported errors within two business days (§5105(a)(7)). Your voting system should maintain this list; if it cannot, the manager builds it by hand.

Annual policy statement. Once the rule is adopted, the annual policy statement (§5310) must describe how a member opts out of, or into, electronic voting.

OPT-OUT REQUEST CHECKLIST FOR THE MANAGER

For every request received

- ☐ It is in writing: a letter, a form, or an email to the address named in the voting-method notice. A phone call or a comment at a meeting does not count (§5260(g)).
- ☐ It arrived on or before the opt-out deadline, 90 days before the election. Date-stamp it on receipt. A late request applies to the next election, so file it rather than discard it.
- ☐ It identifies the member and the separate interest: name plus the unit, lot, parcel number, or property address.
- ☐ It says which way the member is switching: electronic to written, or written to electronic.
- ☐ Update the voting list the same day and send the member a short confirmation of the change and the method they will use.
- ☐ Keep the request with the election materials. It is part of the record a member or a court may inspect (§5200, §5145).

Before ballots go out

- ☐ Every member is on the voting list exactly once, marked electronic or written.
- ☐ Every electronic voter has an email address on file. Anyone without one moves to the written list (§5105(i)(7)).
- ☐ The written list is the paper-ballot mailing list: opt-outs plus no-email members, nobody else (§5115(c)).
- ☐ Members have been able to check their own entry for at least 30 days, and every reported error was corrected within two business days (§5105(a)(7)).
- ☐ The inspector has the final list, the opt-out requests, and the date each was received.
- ☐ Under an opt-in rule, run this same checklist on the opt-in requests instead.

Choosing an inspector and a voting system

The inspector is legally responsible for the electronic system, so pick the inspector first and the platform second. Ask every candidate the same questions and keep the answers with the election file.

ASK	WHY IT MATTERS
Are you independent of the association under §5110(b)?	The inspector cannot be a director, a candidate, a relative of either, or anyone the association pays for other services, including the manager.
Who operates the voting system on election day, you or the vendor?	§5110(c)(4) puts the duty on the inspector. If a vendor runs it, the inspector must still be the one in control.
How does the system verify each voter's identity?	Required. Ask what a member needs to log in and what stops one household from voting twice.
How is the voter's identity separated from the ballot, and when?	The separation must be permanent, so that no one can later connect a ballot to a member. Ask to see how it works, not just that it does.
Does each voter get a receipt?	Required. The receipt confirms the vote was received without revealing how the member voted.
How does a member confirm their device works at least 30 days before the deadline?	Required. The usual answer is the voting link itself, live from the day ballots go out, or a separate test link in the ballot notice.
Can anyone see the running tally before the count meeting?	No one may, including the manager and the board (§5120(c)). Ask how the tally is sealed and who holds the key.
How are paper ballots from opt-out members handled?	The inspector must run both tracks and combine them at the count. Ask who opens envelopes and how paper votes enter the tally.
Does the system maintain the voting list?	The association must keep a list of who votes electronically and who on paper. A system that keeps it saves the manager hours and errors.
How long are ballots and records kept, and where?	One year in the inspector's custody (§5125), available for recount and member inspection. Ask where the data physically lives.
What happens if the election fails quorum?	A reconvened meeting at least 20 days later with a reduced quorum may be available (§5115). Ask whether the second round costs the same as the first.
What does a complete election cost, including paper?	Get the total for your member count, not a per-ballot rate. Paper for opt-outs, postage and the inspector's fee are all part of the number.

Sample election-rule language

A starting point for your attorney, not a finished rule. It tracks the contents §5105(i)(1) requires. Replace the bracketed items and have counsel conform it to your existing election rules before the §4360 notice goes out.

Section [X]. Electronic Secret Ballot Voting

(a) Authorization. Pursuant to Civil Code §5105(i), the Association may conduct any election or membership vote by electronic secret ballot through its inspector(s) of elections, except a vote on a regular or special assessment, which shall be conducted by written secret ballot.

(b) Default method; opt-out. Members shall vote by electronic secret ballot unless the member opts out. A member may opt out and instead vote by written secret ballot by delivering a written request to the Association at [mailing address] or [email address] no later than 90 days before the election. A member who has opted out may resume voting by electronic secret ballot by delivering a written request to the Association by the same deadline. A request received after the deadline applies to the next election. A member's voting method remains in effect for subsequent elections until the member changes it in writing.

[Opt-in alternative: Members shall vote by written secret ballot unless the member opts in to electronic secret ballot voting by delivering a written request to the Association at [mailing address] or [email address] no later than 90 days before the election. A member who has opted in may resume voting by written secret ballot by delivering a written request by the same deadline.]

(c) Email address. A member who votes by electronic secret ballot shall provide the Association a valid email address and shall keep it current. A member for whom the Association has no valid email address on file when ballots are distributed shall receive a written secret ballot.

(d) Voting-method notice. At least 30 days before the opt-out deadline, the Association shall deliver individual notice to each member stating: (1) the member's current voting method; (2) the email address on file for electronic voting, if any; (3) that the member must opt out to vote by written secret ballot; (4) how to opt out; and (5) the deadline to opt out.

(e) Voting list. The Association shall maintain a voting list identifying which members vote by electronic secret ballot and which by written secret ballot, and shall describe the opt-out procedure in the annual policy statement. Members may verify the accuracy of their own entry on the voting list at least 30 days before ballots are distributed, and the inspector(s) shall correct any reported error within two business days.

(f) Ballots. The electronic secret ballot and the written secret ballot shall contain the same list of items. Written ballots shall be mailed only to members who have opted out and to members for whom the Association has no valid email address.

(g) Electronic ballot notice. At least 30 days before the election, the inspector(s) shall deliver individual notice of the electronic secret ballot to each member voting electronically, including instructions on how to access the internet-based voting system and how to vote. The notice may be delivered electronically to the address designated by the member.

(h) Nominations. Nominations from the floor of a membership meeting are not permitted.

(i) Effect of vote. An electronic secret ballot is effective when transmitted to the system designated by the inspector(s) and may not be revoked. A member who votes by electronic secret ballot is counted as present for purposes of quorum. Once a quorum is established, no substantive vote of the members shall be taken on any matter other than the matters identified on the electronic secret ballot.

(j) System requirements. The inspector(s) shall ensure the internet-based voting system meets the requirements of Civil Code §5110(c)(4).

(k) Effective date. This rule takes effect upon adoption under Civil Code §4360 and applies to any election or membership vote held more than 90 days after the date of adoption.

Questions boards ask

Do members have to vote online?

No. Any member can opt out and vote on paper. Members without an email address on file get paper automatically.

Do we need a membership vote or a CC&R amendment?

No. The board adopts an operating rule under §4360. Section 5105(i) applies regardless of what the governing documents say about paper ballots.

Can our management company run the election?

No. The management company is under contract to the association, so it cannot serve as inspector (§5110(b)). It can recommend a platform, help collect email addresses, and prepare notices. The inspector operates the voting system.

Can a member change their vote after submitting it?

No. An electronic ballot is irrevocable once transmitted (§5105(i)), the same as a paper ballot once the inspector receives it.

Does an electronic vote count toward quorum?

Yes. The member is counted as present at the meeting (§5105(i)). One consequence: once quorum is reached that way, the meeting cannot take a substantive vote on anything that was not on the electronic ballot.

Can the whole election happen without a physical meeting?

Mostly. Any election may be conducted entirely by mail or electronic ballot (§5115), but the inspector still counts ballots at a noticed meeting that members may attend.

Can we use electronic voting for a special assessment?

No. Regular and special assessment votes stay on paper.

We adopted the rule 60 days before our annual meeting. Can we use it?

Not for that election. Rules cannot be amended within 90 days of an election (§5105(h)), and the opt-out deadline alone sits 90 days out. Run this election on paper and use the rule for the next one.

What if a member says they never got the email?

This is why the device check exists: every electronic voter can confirm access at least 30 days before the deadline, usually by opening their voting link. Keep the voting-method notice and the ballot notice in the election file; both are evidence of delivery. A member whose email turns out to be bad gets a written ballot (§5105(i)(7)).

Who can see the results before the count?

No one. The electronic tally may not be opened or reviewed by anyone, including the board or manager, before the count meeting (§5120(c)).

How long are the records kept?

Ballots and the electronic tally stay in the inspector's custody for one year after the election, available for recount and member inspection (§5125).

Statutes and sources

SECTION	COVERS
Civil Code §4040	Individual delivery of notices: first-class mail, or email to members who have consented
Civil Code §4360	Operating-rule adoption: notice, 28-day comment, board vote, notice of adoption
Civil Code §5105	Election rules; (a)(7) voting list; (h) 90-day amendment freeze; (i) electronic secret ballots
Civil Code §5110	Inspector of elections: independence (b) and electronic-system duties (c)(4)
Civil Code §5115	Pre-ballot notice, ballot delivery, mail and electronic elections, amendment text by electronic means (g)(2)
Civil Code §5120	Counting ballots; tally secrecy (c); reporting results
Civil Code §5125	Custody of ballots and the electronic tally sheet
Civil Code §5260	Requests that must be in writing, including a request to opt out of or into electronic voting (g)
Civil Code §5310	Annual policy statement

- AB 2159 (Maienschein), Stats. 2024, ch. 383; Senate Judiciary Committee and Senate Housing Committee analyses, June 2024
- Civil Code §5115, current text
- Kelly G. Richardson, "Is your HOA ready for electronic voting?", Santa Monica Daily Press, Feb. 21, 2025

This guide is not legal advice. It summarizes California law as of October 2026. The Davis-Stirling Act is amended most years, and your governing documents may add requirements. Have your association's attorney review the rule amendment and notices before you send them.

About BallotLink

BallotLink is a California-only election platform built for the Davis-Stirling Act by NextGen Campaigns, a Sacramento company. It runs both tracks of a hybrid election, electronic and paper, under the control of your independent inspector of elections. It maintains the voting list, sends the electronic ballot notice and a receipt to every member who votes, and keeps the ballot records for the one-year period the statute requires. Data stays on servers in California.

Questions about your timeline, or want a walkthrough with your inspector? ballotlink.vote