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## SENATE BILL 323 BYLAW NONCOMPLIANCE “CHEAT SHEET”

This “cheat sheet” highlights the provisions of the Association’s existing Bylaws which are out of compliance with Senate Bill 323.<sup>1</sup> This “cheat sheet” will be a useful tool for navigating conflicts between the Association’s Election Rules and Bylaws.

CURRENT BYLAWS SECTION NUMBER & TOPIC	BRIEF DESCRIPTION OF SB 323 NONCOMPLIANCE
<i>Article I, Section 4(e).</i> “Voting Power” means those Members who are eligible to vote....	<b>Voter eligibility - SB 323 prohibits suspension of voting rights</b>
<i>Article IV, Section 3.</i> Only Members in good standing shall be entitled to vote at any membership meeting....	<b>Voter eligibility - SB 323 prohibits suspension of voting rights</b>
<i>Article IV, Section 6(b).</i> ...for purposes of determining those Members eligible to cast written ballots....	<b>Voter eligibility - SB 323 prohibits suspension of voting rights</b>
<i>Article IV, Section 6(c).</i> Balloting Time Requirements.	<b>SB 323 imposes strict timelines for balloting and other election-related deadlines and dates. See Election Timeline for details.</b>

<sup>1</sup> This “cheat sheet” is limited to addressing noncompliance involving changes in the law due to passage of SB 323. There may be provisions of the Bylaws which are out of compliance with other applicable laws and statutes. Also be aware that even if an association’s CC&Rs allow for suspension of voting rights, SB 323 nevertheless prohibits suspension of voting rights.

<p align="center"><b>CURRENT BYLAWS SECTION NUMBER &amp; TOPIC</b></p>	<p align="center"><b>BRIEF DESCRIPTION OF SB 323 NONCOMPLIANCE</b></p>
<p><i>Article IV, Section 6(c)(i).</i> ...ballots shall be mailed to all Members who are eligible to vote....</p>	<p align="center"><b>Voter eligibility - SB 323 prohibits suspension of voting rights</b></p>
<p><i>Article IV, Section 6(f)(ii).</i> ...if an accounting firm is selected to supervise the election and balloting process....</p>	<p align="center"><b>SB 323 prohibits entities currently under contract with the Association for services other than serving as the Inspector of Elections (IOE) from serving as the IOE. Therefore, the Association’s contracted CPA is ineligible to supervise the election process as the IOE.</b></p>
<p><i>Article V, Section 3(b).</i> ...which date shall not be less than 35 nor more than 90 days following the receipt of the request....</p>	<p align="center"><b>SB 323 timelines can impact the ability of the Association to comply with the Bylaw timing (and with Corporations Code timing); See Election Rules for notice requirements for special meetings.</b></p>
<p><i>Article V, Section 4(a).</i> ...each Member who is are eligible to vote....</p>	<p align="center"><b>Voter eligibility - SB 323 prohibits suspension of voting rights</b></p>
<p><i>Article V, Section 4(b).</i> Time Requirements for Notice.</p>	<p align="center"><b>SB 323 requires compliance with its timelines for notice; See Election Rules and Election Timeline for notice and other timing requirements.</b></p>
<p><i>Article V, Section 5(a)(ii).</i> ...the Members eligible to vote....</p>	<p align="center"><b>Voter eligibility - SB 323 prohibits suspension of voting rights</b></p>
<p><i>Article V, Section 8.</i> Record Dates for Member Notice, Voting and Giving Consents.</p>	<p align="center"><b>SB 323 requires compliance with its timelines for notice; See Election Rules and Election Timeline for notice and other timing requirements.</b></p>

<p style="text-align: center;"><b>CURRENT BYLAWS SECTION NUMBER &amp; TOPIC</b></p>	<p style="text-align: center;"><b>BRIEF DESCRIPTION OF SB 323 NONCOMPLIANCE</b></p>
<p><i>Article VII, Section 2.</i> ...Directors shall consist of...Owners...who are also Members and are in good standing with all Assessments current and are not subject to any suspension of membership rights....</p>	<p style="text-align: center;"><b>SB 323 only allows for assessment delinquency (not other types of violations) to be the basis for candidate disqualification; See Election Rules for allowable qualifications.</b></p>
<p><i>Article VII, Section 3.</i> ...[N]o person shall serve as a director for more than 2 consecutive terms....</p>	<p style="text-align: center;"><b>SB 323 does not specifically address the effect of term limits. The Association’s Election Rules and current Bylaws do, however provide for term limits.</b></p>
<p><i>Article VII, Section 4(a).</i> Petition Procedure.</p>	<p style="text-align: center;"><b>The need for this procedure of self-nomination via petition signed by other members of the Association has been, as a practical matter, superseded by existing law; SB 323 also now requires compliance with its own timeframes/deadlines.</b></p>
<p><i>Article VII, Section 4(b).</i> Good Standing Requirement for Candidacy.</p>	<p style="text-align: center;"><b>SB 323 only allows for assessment delinquency (not other types of violations) to be the basis for candidate disqualification; See Election Rules for allowable qualifications and the procedures required for disqualifying candidates, including the opportunity for Internal Dispute Resolution.</b></p>
<p><i>Article VII, Section 5(c).</i> Supervision of Election Process.</p>	<p style="text-align: center;"><b>SB 323 prohibits entities currently under contract with the Association for services other than serving as the Inspector of Elections (IOE) from serving as the IOE. Therefore, the Association’s contracted legal counsel and CPA are ineligible to supervise the election process as the IOE.</b></p>