

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Evan Low, Chair

AB 1044 (Quirk) – As Amended March 29, 2017

SUBJECT: State voter information guide: vote by mail and provisional ballot verification.

SUMMARY: Requires the Secretary of State (SOS) to include an Internet Web site address in the state voter information guide at which a voter may access to check the status of his or her vote by mail (VBM) or provisional ballot.

EXISTING LAW:

- 1) Requires a VBM ballot be available to any registered voter.
- 2) Requires the SOS to prepare and mail a state voter information guide to registered voters, as specified.
- 3) Requires a county elections official to establish a free access system that allows a VBM voter or a provisional voter to learn if his or her ballot was counted and, if not, the reason why the ballot was not counted. Requires the elections official to make the free access system available to a VBM voter upon completion of the official canvass and for 30 days after completion of the official canvass.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of the Bill:** According to the author:

Under the existing federal Help America Vote Act of 2002, the Secretary of State is required to implement a computerized statewide voter registration list that will serve as the single system for storing and managing the official list of registered voters.

Existing state law requires that each ballot delivered to a qualified applicant be accompanied by a state voter information guide, unless the voter has already been provided a state voter information guide.

The majority of Californian voters cast their ballots by mail. In the 2016 General Election, over 57% of California voters received their ballot by mail. In 23 counties, the vote-by-mail rate is over 70%. This makes California one of the leading states in vote-by-mail balloting.

The vote-by-mail process can be more convenient for voters who are unable or unwilling to contend with lines at polling places on Election Day. However, voting by mail is not a voting option without risk. Outdated laws, new administrative policies, and the realities of the political process today introduce obstacles voters may not be aware of.

California has [led] the way in improving voter access. Unfortunately, voters may unknowingly disenfranchise themselves. Very few voters know they have the right to learn of the ballot they cast via mail was counted. AB 1044 will fix that specifically, AB 1044 will require that the state voter information guide... [display] the Internet Web site address for voters to check the status of their vote by mail ballot.

- 2) **Vote by Mail and Provisional Ballot Status:** On October 29, 2002, President George W. Bush signed Help America Vote Act of 2002 (HAVA). Enacted partially in response to the 2000 Presidential election, HAVA was designed to improve the administration of federal elections. Among other provisions, HAVA requires each state or local elections official to establish a "free access system," such as a toll-free telephone number for voters to call or an Internet website that voters can access free of charge, through which a voter who cast a provisional ballot can ascertain whether or not their vote was counted, and, if it was not counted, the reason why it was not counted.

In 2013, the Legislature passed and the Governor signed SB 589 (Hill), Chapter 280, Statutes of 2013, which required county elections officials to establish a free access system that allows a VBM voter to learn whether his or her VBM ballot was counted and, if not, the reason why the ballot was not counted. Additionally, SB 589 clarified that a county elections official may use a free access system for provisional ballots established by the county pursuant to the federal HAVA to implement the requirements of SB 589. In California every county elections official allows a voter to check the status of his or her VBM and provisional ballot either through the county website, by telephone, or both.

- 3) **VoteCal:** HAVA also requires every state to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level. This statewide voter registration list serves as the official list of eligible voters for any federal election held within the state. At the time HAVA was approved, California was already using a statewide voter registration system, known as Calvoter, which achieved some of the goals of the voter registration list required by HAVA. However, Calvoter did not satisfy many of the requirements in that law, including requirements that the database be fully interactive and have the capability of storing a complete voter registration history for every voter. Discussions between the United States Department of Justice and the SOS led to the adoption of a memorandum of agreement (MOA) between the two parties. In that MOA, the SOS committed to further upgrades to the Calvoter system to achieve short-term interim compliance with the requirements of HAVA, and to complete development and implementation of a longer-term solution for replacing the Calvoter system with a new permanent statewide voter registration system. That new permanent system is commonly known as VoteCal.

Last September, the SOS certified VoteCal and declared it to be the system of record for voter registration in California. VoteCal's many functions will improve service to voters such as connecting the SOS and all 58 counties offices to improve the voter registration process, provide a single, official statewide database of voter registration information, and provide a publically available website which allows a voter to register online, check their voter registration status, find their polling place, opt-out of being mailed a state voter

information guide and check if their VBM or provisional ballot was counted by their county elections official and, if not, the reason why it was not counted.

- 4) **State Voter Information Guide:** Current law requires the SOS to send each registered voter a state voter information guide that contains a complete copy of each state measure, arguments and rebuttals for and against each state measure, an analysis of each state measure, the Voter Bill of Rights, and tables of contents, indexes, graphics and other materials that the SOS determines will make the state voter information guide easier to understand, among other information. In practice, after statutory requirements are met and if there are extra blank pages in the state voter information guide, the SOS will add additional information that is important and useful to voters, such as information about voting by mail, provisional voting, early voting, voter registration, voter registration privacy information, and assistance for voters with disabilities.

This bill requires the SOS to include a Internet Web site address that a voter may access to check the status of his or her VBM or provisional ballot in the state voter information guide. While in practice the SOS has displayed information pertaining to voting by mail or provisional voting, it has not included the Internet Web site address that a voter may access to check his or her ballot status because VoteCal was not yet certified. While the SOS has the ability to include such an Internet Web address in the state voter information guide absent this bill, this bill would ensure that the Web site address is included in the state voter information guide for all future elections.

REGISTERED SUPPORT / OPPOSITION:

Support

Disability Rights California (prior version)

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094