Date of Hearing: April 15, 2015

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Sebastian Ridley-Thomas, Chair
AB 477 (Mullin) – As Amended April 8, 2015

SUBJECT: Elections: vote by mail ballots.

SUMMARY: Allows a voter who failed to sign his or her vote by mail (VBM) identification envelope to sign a statement up to 10 days after the election, as specified, in order to have his or her ballot counted. Specifically, **this bill**:

1) Prohibits an elections official, if he or she determines that a voter has failed to sign the VBM identification envelope, from rejecting the VBM ballot if the voter does any of the following:

   a) Signs the identification envelope at the office of the elections official during regular business hours before 5 p.m. on the 10th day after the election;

   b) Before 5 p.m. on the 10th day after the election, completes and submits an unsigned ballot statement to be in substantially the following form;

   "UNSIGNED BALLOT STATEMENT

   I, am a registered voter of _____ County, State of California. I do solemnly swear (or affirm) that I requested and returned a vote by mail ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, or if I aid or abet fraud or attempt to aid or abet fraud in connection with voting, I may be convicted of a felony punishable by imprisonment for 16 months or two or three years. I understand that my failure to sign this statement means that my vote by mail ballot will be invalidated.

   Voter's Signature

   Address"

   c) Before the polls close on election day, completes and submits an unsigned ballot statement, in the form described above, to a polling place within the county or ballot drop-off box.

2) Requires an elections official, if timely submitted, to accept any completed unsigned ballot statement. Requires an elections official, upon receipt of the unsigned ballot statement, to compare the voter's signature on the statement in the manner provided by current law.

3) Requires an elections official, if he or she determines that the signatures compare, to attach the unsigned ballot statement to the identification envelope and deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

4) Prohibits an elections official, if he or she determines that the signatures do not compare, from opening the identification envelope and prohibits the ballot from being counted.

5) Permits an elections official to use methods other than those described above to obtain a voter's signature on an unsigned identification envelope.

6) Requires instructions to accompany the unsigned ballot statement to be in substantially the following form:

"READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE STATEMENT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your vote by mail ballot will be counted, your statement should be completed and returned as soon as possible so that it can reach the elections official of the county in which your precinct is located no later than 5 p.m. on the tenth day after the election.

2. You must sign your name on the line above (Voter's Signature).

3. Place the statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have delivered the completed statement to the elections official. Be sure there is sufficient postage if mailed and that the address of the elections official is correct.

4. Alternatively, you may submit your completed statement by facsimile transmission to your local elections official, or submit your completed statement to a polling place within the county or a ballot drop off box before the close of the polls on election day.

7) Requires the Secretary of State to include the unsigned ballot statement and instructions described above on his or her Internet Web site, and provide a list of mailing addresses, and facsimile transmission numbers of all elections officials, or provide conspicuous hyperlinks to that information, on the Internet Web page containing the statement and instructions.

8) Requires an elections official to include the unsigned ballot statement and instructions described above on his or her Internet Web site, and provide the elections official's mailing address, and facsimile transmission number on the Internet Web page containing the statement and instructions.

9) Allows an elections official to compare the signature on a VBM ballot identification envelope with a signature appearing on any form issued by the elections official that contains the voter's signature and that is part of the voter's registration record, instead of providing that an elections official may make a determination of whether the signature on a voter's VBM ballot identification envelope compares to the voter's registration record by reviewing a series of signatures appearing on official forms in the voter's registration record that have been determined to compare, and that demonstrates the progression of the voter's signature.

EXISTING LAW:

1) Requires a county elections official, upon receiving a VBM ballot, to compare the signatures on the envelope with either of the following:

a) The signature appearing on any previous affidavit of registration of the voter; or,

b) The signature appearing on a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined compares with the signature on the voter's affidavit of registration or any previous affidavit of registration of the voter.

2) Permits an elections official to make the determination of whether a signature on a VBM ballot compares with the signatures on file for that voter by reviewing a series of signatures appearing on official forms in the voter's registration record that have been determined to compare, that demonstrate the progression of the voter's signature, and makes evident that the signature on the identification envelope is that of the voter.

3) Permits a county elections official to use the duplicate file of affidavits of registered voters or facsimiles of voters' signatures when determining from the records of registration if the signature and residence address compare, as specified.

4) Provides that if the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. Requires the cause of the rejection to be written on the face of the identification envelope.

5) Authorizes an elections official, in comparing signatures, to use signature verification technology. Prohibits an elections official, if the signature verification technology determines the signatures does not compare, from rejecting the ballot unless he or she visually examines the signatures and verifies that the signatures do not compare.

6) Allows VBM ballots to be counted if they are cast by election day and received by the elections official by mail no later than three days after the election, as specified.

FISCAL EFFECT: Unknown. State-mandated local program: contains reimbursement direction.

COMMENTS:

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

> AB 477 will reduce the number of legitimate vote-by-mail ballots that are rejected, ensuring that fewer voters are disenfranchised. California has one of the highest ballot rejection rates in the country, which is especially disconcerting because vote-by-mail ballot use has increased rapidly in recent years, with 60 percent of voters casting their ballots by mail in last November's general election. With such high usage rates, it is imperative the state do everything possible to minimize the number of discarded legitimate ballots.

> 69,000 ballots were rejected in the 2012 general election. About one-quarter of vote-by-mail ballots were thrown out because the signature on the ballot envelope did not match the signature on record. With the advent of online voter registration, many voters' signatures are pulled from their Department of Motor Vehicles file. In many cases, this signature is out of date or the voter was unable to sign clearly because they used an

electronic signature pad. AB 477 would reduce the number of ballots thrown out because of mismatching signatures by allowing elections officials to use other signatures in a voter's registration record to verify vote-by-mail envelopes.

In addition, about 17 percent of ballots are not counted because the voter failed to sign his or her ballot envelope altogether. To remedy this, AB 477 allows elections officials to collect a voter's signature on a separate form, signed under penalty of perjury. This policy has been successfully implemented in both Florida and Colorado. Lastly, the bill also incorporates another successful Colorado law by allowing elections officials to collect signatures on unsigned ballots after Election Day.

2) **Vote By Mail Ballot Rejection:** The UC Davis California Civic Engagement Project conducted a statewide survey of California's 58 county election offices to gain a better understanding of California's use of VBM ballots, including return methods. According to their September 2014 brief, entitled "California's Uncounted VBM Ballots: Indentifying Variation in County Processing," in 2012, for the first time in a statewide general election, over 50 percent of California's voters chose to cast their ballot via VBM. This totaled 6.6 million ballots. However, approximately one percent of those VBM ballots received by the elections official were rejected during ballot processing. That amounts to approximately 69,000 ballots. According to the survey, late receipt was the most common reason why a VBM ballot was uncounted. Signature issues, such as a missing signature or a mismatching signature, were the other top two reasons for VBM ballot rejection.

In an effort to remedy the significant VBM ballot rejection rate, last session the Legislature approved and Governor Brown signed SB 29 (Correa), Chapter 618, Statutes of 2014, which allowed VBM ballots to be counted if they are cast by election day and received by the elections official by mail no later than three days after the election, as specified. The signing and implementation of SB 29 (Correa), was ground breaking as it represented the first time that California state law explicitly has allowed any ballot which was received after election day to be counted.

According to the author's statement, the goal of this bill is to address those VBM ballots that arrive with no signature. This bill will help remedy this problem by prohibiting an elections official, if a voter has failed to sign the VBM identification envelope, from rejecting the VBM ballot, as specified. This bill creates a new process that permits a voter to either sign the identification envelope of his or her VBM ballot at the elections official's office or complete and submit an unsigned ballot statement before 5 p.m. on the 10th day after the election, as specified. If the voter chooses to complete and submit an unsigned ballot statement, this bill requires that the unsigned ballot statement be mailed or delivered to the elections official's office before 5 p.m. on the 10th day after election day or, alternatively, dropped off at a polling place or in a drop-off box within the county the voter is registered before the polls close on election day.

3) **Current Procedures for Processing Unsigned VBM Ballots**: Current law does not require county elections officials to contact a voter and inform them that his or her ballot was not counted. However, in practice, when it comes to VBM ballots being rejected due to missing signatures, county elections officials attempt to contact the voter prior to election day in order to provide them the opportunity to correct their ballot. According to the UC Davis California Civic Engagement Project survey referenced above, nearly all counties utilize

multiple methods to contact a voter, such as contacting the voter by phone, email, or mailing the VBM ballot back. However, because current law does not require a voter to provide a phone number or email when an individual registers to vote or requests a VBM ballot, efforts to contact a voter remain a challenge as a voter's phone number and email may not be updated or available. While this bill sets up a new process that will help ensure that a voter who votes by mail and forgets to sign his or her VBM ballot has an opportunity to ensure their ballot is counted, one major issue remains unresolved - county elections officials will still face similar challenges when attempting to contact a voter to alert them of a missing signature.

On the other hand, because phone numbers and emails are difficult for an elections official to obtain, mail is usually the only available recourse when contacting a voter. This bill, which permits an unsigned ballot statement to be received by an elections official 10 days after election day, will, theoretically, provide county elections officials with more time to alert a voter of their unsigned VBM ballot and allow a voter time to correct the lack of signature on the VBM identification envelope.

4) **Florida and Colorado Laws:** According to the author, this bill was partially inspired by election laws in Florida and Colorado. Florida law requires an election supervisor, until 5 p.m. on the day before an election, to allow a voter who has returned an unsigned absentee ballot to complete and submit an affidavit in order to cure the unsigned absentee ballot, as specified. This bill mirrors some aspects of Florida's law and prohibits an elections official, if a voter has failed to sign his or her VBM identification envelope, from rejecting the VBM ballot. Specifically, this bill permits the voter to complete and submit an unsigned ballot statement to the elections official, as specified.

This bill also incorporates components of a Colorado election law pertaining to unsigned mail or provisional ballots. Colorado requires an elections official, if a mail or provisional ballot return envelope lacks a signature, to contact the voter in writing no later than two calendar days after election day. Colorado requires an elections official to send a letter to the voter informing the voter that he or she must sign and return a Signature Affidavit Form in person or by mail, facsimile, or email no later than eight days after the election. This bill contains similar provisions and requires a voter to complete and submit an unsigned ballot statement in person or by mail or fax, not email, by the 5 p.m. on the 10th day after election day.

5) **Arguments in Support**: In support of this bill, the California Voter Foundation, writes:

> Last year the [California Voter Foundation] published a first-of-its-kind, in-depth study of three counties' vote-by-mail programs, indentifying differences between these programs and recommending improvements that can be implemented so that more mail ballots that are cast can be counted. Our study found that two counties – Sacramento and Orange – when voters fail to sign their VBM envelope, the voter is contacted and urged to come to the election office and sign the envelope there. In the third county studied – Santa Cruz – ballots that lack a signature are mailed back to the voter to be signed and re-submitted, creating some confusion as to whether new postage needs to be affixed to the VBM envelope. By providing an additional method for county registrars to collect a VBM voter's missing signature, [AB 477] will help increase the VBM ballot success rate.

6) **Previous Legislation**: AB 1135 (Mullin), Chapter 271, Statutes of 2013, expands the list of documents a county elections official may use to compare to the signature on a VBM ballot identification envelope, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Voter Foundation
VerifiedVoting.org

Opposition

None on file.

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