

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Evan Low, Chair

AB 840 (Quirk) – As Introduced February 16, 2017

SUBJECT: Elections: vote by mail ballots: unsigned ballot statements.

SUMMARY: Permits a voter who did not sign his or her vote by mail (VBM) identification envelope to return a completed unsigned ballot statement by email, as specified. Specifically, **this bill:**

- 1) Authorizes a voter who did not sign his or her VBM identification envelope to submit his or her completed unsigned ballot statement to the local elections official by email.
- 2) Requires the instructions that accompany the unsigned ballot statement to inform a voter that a completed unsigned ballot statement may be submitted by email.
- 3) Requires an elections official to provide the elections official's email address on the Internet Web page containing the unsigned ballot statement and instructions.

EXISTING LAW:

- 1) Requires a county elections official, upon receiving a VBM ballot, to compare the signatures on the identification envelope with either of the following:
 - a) The signature appearing on the voter's affidavit of registration or 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 and is part of the voter's registration record.
- 2) 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.
- 3) Prohibits an elections official from rejecting a VBM ballot on the grounds that the voter failed to sign the ballot identification envelope 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 eighth day after the election;
 - b) Before 5 p.m. on the eighth day after the election, completes and submits an unsigned ballot statement, as specified; or,
 - c) Before the close of the polls on election day, completes an unsigned ballot statement, and submits it to a polling place within the county or a ballot dropoff box.

- 4) Allows a voter to return a completed unsigned ballot statement by mail, have it delivered, submitted by facsimile transmission, or alternatively returned to a polling place within the county or a ballot dropoff box before the polls close on election day.
- 5) Requires an elections official to accept any completed unsigned ballot statement that is timely submitted. Requires the elections official, upon receipt of the unsigned ballot statement, to compare the voter's signature on the statement, as specified.
- 6) 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. Prohibits an identification envelope, if the elections official determines that the signatures do not compare, from being opened or counted.

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

COMMENTS:

- 1) **Author's Amendments:** In order to address a question that was raised about this bill, the author is proposing the following author's amendments to page 3, lines 22-31 of the bill:

“UNSIGNED BALLOT STATEMENT

I, _____, am a registered voter of _____ County, State of California. I ~~do solemnly swear (or affirm)~~ **declare under penalty of perjury** 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 am a resident of the precinct, and the person whose name appears on the vote by mail ballot envelope.** 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.

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

The number of Californians who choose to use a vote-by-mail ballot continues to rise. 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. Unfortunately, California is also a leader in the number of ballots that are [rejected] year after year.

Voters are required to sign the envelope in which they return their vote-by-mail ballot. In both the 2014 and 2012 November General Election nearly 10,000 voters had their vote-by-mail ballot rejected because of a missing signature.

Under current law, a voter has until 5 pm on the eighth day after the election to submit a hard copy of their signature (fax, mail, or in person). To decrease the amount of rejected ballots, AB 840 modernizes the process.

- 3) **Vote by Mail Ballot Rejection:** The California Civic Engagement Project, housed at the University of California at Davis, 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: Identifying 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 using a VBM ballot. 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.
- 4) **Previous Legislation:** In an effort to remedy the significant VBM ballot rejection rate, in 2014 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) represented the first time that California state law explicitly allowed any ballot which was received after election day to be counted.

Additionally, in 2015, the Legislature passed and the Governor signed AB 477 (Mullin), Chapter 726, Statutes of 2015, which allows a voter who failed to sign his or her VBM identification envelope to complete and sign an unsigned ballot statement up to eight days after the election, as specified, in order to have his or her ballot counted. AB 477 allows an unsigned ballot statement to be submitted to a polling place within the county or a ballot drop-off box. Alternately, a voter may return an unsigned ballot statement by mail, have it delivered, or submit it by facsimile. This bill further authorizes a voter to return a completed unsigned ballot statement via email, and requires the unsigned ballot statement instructions to include the election official's email address.

- 5) **Colorado Law:** AB 477 (Mullin), Chapter 726, Statutes of 2015, which set up the unsigned ballot statement process, was inspired by 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. The elections official is required to send a letter 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 similarly would allow unsigned ballot statements to be returned by email.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Alex Padilla (Sponsor)
American Civil Liberties Union of California
Disability Rights California

Opposition

None on file.

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