Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Paul Fong, Chair
AB 1135 (Mullin) – As Amended: April 1, 2013

SUBJECT: Vote by mail ballots: signature verification.

SUMMARY: Expands the list of documents a county elections official may use to compare to the signature on a vote by mail (VBM) ballot identification envelope. Specifically, this bill:

1) Permits a county elections official, upon receipt of a VBM ballot, to compare the signature on the identification envelope with the signature appearing on any supporting document that contains the voter's signature and is part of the voter's registration record to determine whether the signatures compare.

2) Permits a county elections official, upon receipt of a military or overseas ballot returned by facsimile transmission, to determine the voter's eligibility by comparing the signature on the return information with the signature of any supporting document that contains the voter's signature and is part of the voter's registration record.

EXISTING LAW:

1) Requires a county elections official, upon receiving a VBM ballot, to compare the signatures on the envelope with the signature appearing on the affidavit of registration. Requires the county elections official, if the signatures compare, to deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

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) Permits a county elections official to use the signature on the voter's VBM application for the signature comparison, if the elections official compared the signature on the voter's VBM ballot application with the signature on the voter's affidavit of registration.

4) 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.

FISCAL EFFECT: This bill is keyed non-fiscal by Legislative Counsel.

COMMENTS:

1) Purpose of Bill: According to the author:

        Signatures often change over time. For example, a young voter who registers to vote at 17 or 18 may not have solidified his or her permanent signature. In addition, as use of

electronic signatures increases, young voters may not have developed a handwritten signature in the first place. Similarly, elderly voters' signatures often change with age.

In current law, the only signature permitted for use in verifying a voter's ballot is the signature attached to the original registration affidavit. This means ballots are being summarily rejected, despite access to more recent signatures in a voter's registration record.

Tying a voter's signature to the original registration affidavit does not account for signatures that change or develop over time. In some cases, the voter's original signature is decades old.

Additionally, the registrar of voters regularly receives other relevant documents from voters that contain updated signatures. Examples include address updates and absentee ballot requests.

To ensure all voters have the greatest chance of having their votes count, AB 1135 allows county registrars to compare a voter's ballot signature to any other document in his or her voter registration record that contains that voter's signature.

2) How Would This Work? As mentioned above, a strict read of existing law only allows the signature on a voter's affidavit of registration to be used when comparing signatures on a VBM ballot or a military or overseas ballot returned by facsimile transmission. The author argues that signatures change or develop over time and in some cases a voter's signature on their affidavit of registration can be outdated. Consequently, valid ballots are being rejected despite access to more recent signatures in voter's registration record. According to county elections officials, many voters' registration records contain a variety of supporting documents that could be used when comparing a voter's signature. Examples of supporting documents include, but are not limited to, address updates, VBM ballot requests, letters from the voter, and postcard updates. When received, these supporting documents are scanned and kept in the voter's registration record. Many of these supporting documents contain the voters' name, address and signature.

3) How Many Ballots Were Rejected Due to Mismatching Signatures? Because election data from the 2012 November general election is still being collected, the committee staff was unable to obtain statewide data on how many ballots were rejected for signatures not matching at that election. However, according to the Sacramento County Registrar of Voters, at the November 2012 general election, Sacramento County had 3,035 VBM ballots rejected. Of those, 1,064 (approximately 35%) were rejected because the signature did not match, 403 did not have signatures, 14 had no ballot enclosed, and the rest were received too late to be counted.

Historically, the main reasons why a ballot is rejected for a signature mismatch is because the signature is unreadable, missing or, as mentioned above in the author's statement, has changed and is out of date. However, there is evidence to suggest that as the voting process modernizes and new technologies are used, the election process is being impacted. For example, the author's staff provided the committee with a copy of a partial signature that was received from the Department of Motor Vehicles' (DMV) database via California's online

voter registration. The image provided to the committee shows that half of the voter's signature is missing. According to a county elections official this particular partial signature came from older DMV records. Clearly this is an unintended consequence of the online voter registration, but nevertheless the partial signature provided is the signature on the voter's affidavit of registration that the county elections must use when comparing signatures.

Furthermore, the only way for a voter to update their signature is to fill out a new voter registration form. Using the online voter registration system may not guarantee that the signature on file with DMV is updated, unless the voter has recently applied or renewed their California driver's license or identification card. Otherwise the signature in the DMV's database could be just as outdated as their voter registration affidavit signature.

Providing county elections officials with the option to use other supporting documents that contain the voter's signature within the voter's registration record for signature comparison purposes could ensure voters are not inadvertently disenfranchised.

4) Contra Costa County Report: Over the years, Contra Costa County, similar to many other counties, has collected data concerning VBM ballots. The collection and analysis of this data has helped counties take proactive steps to improve the success rate for VBM voters. According to Contra Costa County Clerk-Recorder's November 6, 2012 General Presidential Election Report, at the November 2010 election, they saw an increase in signatures being rejected for "no match." Upon further investigation, they found that voters less than 50 years of age and clustered in the 20-39 age groups represented a disproportionately high number of rejected ballots for no signature match. According to the report, in an effort to help mitigate this problem, Contra Costa County changed their "Make Your Vote Count" insert that is placed in their outgoing VBM packets to highlight the problem. The insert alerted voters that how they sign their name matters when they sign their ballot envelope and reminded voters that if their signature changed to immediately re-register so their current registration would be on file. According to the report, the outreach efforts did have a positive effect and the county saw a reduction in rejected signatures by over 40% between the November 2010 and November 2012 elections. However, despite that reduction, younger voters remain well above the average for rejected signatures. Consequently, Contra Costa County plans to do more outreach via the social networks in hopes to educate voters and reduce the number of ballots rejected.

While the evidence reported in Contra Costa County's report reflects only one county's experience, it is still significant. Contra Costa's findings illustrate that the signature matching issue has the potential to impact any voter and could potentially result in their disenfranchisement.

5) Related Legislation: SB 589 (Hill), permits a county elections official, when comparing the signature on a VBM identification envelope, to use the signature appearing on the voter's current or previous affidavit of registration on file with the elections official, among other provisions. SB 589 is pending the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials

Opposition

None on file.

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