

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 2951 (Cervantes) – As Introduced February 16, 2024

SUBJECT: Elections: request for recount: notice.

SUMMARY: Changes the method by which the Secretary of State (SOS) notifies county elections officials of a voter's request for a recount of an election for statewide office or a statewide ballot measure. Specifically, **this bill:**

- 1) Deletes a requirement that the SOS use registered mail to notify a county elections official that a voter has requested a recount of votes cast in that county for a statewide office or a statewide ballot measure, and instead requires the SOS to use electronic delivery to notify the county elections official.
- 2) Requires the county elections official to provide written confirmation to the SOS of receipt of the electronic copy of the recount request.

EXISTING LAW:

- 1) Provides for a recount of the votes cast for an office or ballot measure in the following circumstances:
 - a) Upon the order of the elections official, if specified conditions are met. (Elections Code §15610)
 - b) At the request of a voter, as specified. (Elections Code §§15620-15634)
 - c) Upon the order of a superior court, in response to a petition by the district attorney that has been requested by the county board of supervisors or grand jury, if specified grounds exist. (Elections Code §§15640-15642)
 - d) Upon the order of the Governor, in the case of votes cast for a statewide office or state ballot measure if the contest is closer than a specified percentage or number of votes, but only to the extent that funds have been appropriated for that purpose, as specified. (Elections Code §§15645-15649)
- 2) Permits a voter, following completion of the official canvass of votes at a statewide election, within five days beginning on the 31st day after the election, to request a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. Requires this request to be made in writing to the SOS, to specify in which county or counties the recount is sought, and to specify on behalf of which candidate, slate of electors, or position on a measure the request is filed. Requires the SOS to send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought. (Elections Code §15621)

- 3) Requires a voter-requested recount to begin not more than seven days following the elections official's receipt of the request for the recount. (Elections Code §15626)

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

COMMENTS:

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

Under existing law, if a voter requests a recount for an election of a statewide office or proposition, the Secretary of State is required to inform the affected counties by sending a notification through registered mail to each of the relevant county elections officials. Assembly Bill 2951 would remove the registered mail requirement, and instead allow the Secretary to notify county elections officials electronically. This will help reduce costs for the Secretary of State's Office, as well as further update our elections systems for the realities of an electronic world.

- 2) **California's Recount Laws:** Unlike certain other states, California law does not provide for an "automatic" recount in any election contest. Instead, state law allows any voter to request a recount of an election contest once the official canvass of results from the election is complete. The voter making the request must pay for the costs of conducting the recount, and is refunded those costs if the recount changes the outcome of the election. A voter-requested recount cannot change the outcome of an election unless every vote cast in the contest is part of the recount. As detailed above, state law also allows the elections official, a superior court, or the Governor to order a recount in specified circumstances.

- 3) **Registered Mail:** According to the United States Postal Service (USPS), registered mail is "[t]he most secure [USPS] mail service (protected by safes, cages, sealed containers, locks, and keys)." For items sent by registered mail, the USPS provides delivery or attempted delivery status once the item reaches its destination, but tracking information is not provided as the item moves through the mail stream. The USPS notes that registered mail is "not recommended if speed of delivery is important," because the security surrounding and manual processing of registered mail "naturally slows the speed at which it travels." The USPS does not provide an estimated delivery time for registered mail.

Until 1984, state law allowed a person who was requesting a recount of a statewide office or ballot measure to make that request directly to the county elections official in each county that the person wanted the ballots recounted. AB 1954 (M. Waters), Chapter 14, Statutes of 1984, instead required any request for a recount of statewide offices or ballot measures to be filed with the SOS, and tasked the SOS with providing a copy of that request to the relevant county or counties via registered mail.

As detailed above, state law requires a voter-requested recount to begin within seven days of the elections official's receipt of the request for the recount. In light of the USPS's admonition that registered mail is not recommended for items where speed of delivery is important, and given the advances in electronic communications since 1984, this bill's

proposal to require the SOS to notify county election officials of statewide recount requests via electronic communication rather than by registered mail seems prudent. By requiring county elections officials to acknowledge the receipt of such a notification, this bill ensures that the SOS continues to receive information demonstrating that the recount notice was received by the relevant county elections officials, just as the SOS currently does through the use of registered mail.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

None on file.

Analysis Prepared by: Ethan Jones / ELECTIONS / (916) 319-2094