

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 3184 (Berman) – As Introduced February 16, 2024

SUBJECT: Secretary of State: reports of ballot rejections.

SUMMARY: Deletes a provision of existing law that requires the Secretary of State (SOS) to publish a report containing the number of rejected vote by mail (VBM) ballots and the rejection reason for every election, including local special elections, on the SOS's internet website, and instead requires the SOS to publish a rejected VBM ballot report only for elections for state office.

EXISTING LAW:

- 1) Requires an elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate. (Elections Code §3000.5)
- 2) Requires an elections official to identify and provide to the SOS within 31 days of the election the number of VBM ballots rejected, categorized according to the reason for the rejection. Requires the SOS to provide uniform VBM ballot rejection reason codes for each category of rejection to be used by elections officials for reporting. Requires the SOS, upon receipt of the information, to publish a report containing the information for every election, including local special elections, on the SOS's internet website. (Elections Code §15377)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Purpose of the Bill:** According to the author: "AB 3184 would simply clarify that the existing requirement that the Secretary of State issue a report on vote by mail ballot rejection data applies to all elections involving state offices and exclude those for which the Secretary of State does not have the authority to oversee or collect data."
- 2) **Vote by Mail Ballot Rejection Study and Previous Legislation:** In September 2020, the California Voter Foundation in collaboration with Dr. Mindy S. Romeo of the University of Southern California Center for Inclusive Democracy examined demographic and voting methods of voters in Sacramento, Santa Clara, and San Mateo counties whose November 2018 VBM ballots were rejected and the reasons for the rejection. The study found that the top three reasons a VBM ballot was rejected were late arrivals of VBM ballots, missing signatures on VBM ballot identification envelopes, and signatures that did not sufficiently match the voter registration signatures on file.

Additionally, the study examined California's VBM process and made the following recommendations:

- Implement statewide regulations and update them on a biannual basis to create more uniformity in counties' signature verification processes.

- Require that more drop boxes and ballot drop-off locations be made available to avoid late postmarks and/or late delivery by United States Postal Service (USPS) that result in ballot rejection.
- Improve California's paper and online voter registration form by letting applicants know that their signature on the form will be used to verify their ballot envelope signature when they cast a VBM ballot.
- Continue improving coordination with the USPS, the SOS, and counties to arrange for timely pickup and delivery of ballots around election time and on election night.
- Require the SOS through VoteCal, the statewide voter registration database, to uniformly report the number of ballots rejected and reasons for rejection.
- Standardize the codes used in counties' election management systems to more uniformly designate the reasons that a ballot is rejected.
- Require counties to report in the certification of election results the number of ballots challenged, cured, rejected and the reasons for rejection.
- Require the SOS or counties to notify voters when their ballots are rejected for any reason and the reason for rejection.
- Advocate for sufficient funding for the USPS to facilitate timely delivery and return of VBM ballots and related materials, and provide ongoing funding to counties to support VBM balloting, education, services, outreach and notification to voters with challenged and rejected ballots.
- Develop legislation to address outstanding policy issues relating to VBM balloting including: the use of signature verification software; issues with signatures collected through the Department of Motor Vehicles; and signature verification training.

SB 503 (Becker), Chapter 319, Statutes of 2021, codified select recommendations from the report including that the SOS uniformly report the number of ballots rejected and reasons for rejection. Specifically, Elections Code section 15377 requires local elections officials to report to the SOS the number of VBM ballots rejected, categorized according to uniform VBM ballot rejection reason codes provided by the SOS, and requires the SOS, upon receipt of that information, to publish a report on the SOS's website containing the number of rejected VBM ballots, categorized by the reason for rejection, for every election, including local special elections.

According to the author, the SOS does not have statutory duties or authority to oversee local elections or collect related data from local city or county offices that conduct local elections. Therefore, the requirement that the SOS post information from local elections officials regarding VBM ballot rejection rates for every local special election is inconsistent with existing law.

- 3) **Secretary of State's VBM Ballot Rejection Reason Reports:** The SOS started posting the VBM ballot rejection reason reports required by Elections Code section 15377 with the June 7, 2022, statewide primary election. Subsequently the SOS has posted VBM ballot rejection

reason reports for the November 2022 statewide general election, the March 2024 presidential statewide primary election, and seven legislative and Congressional vacancy elections. All three statewide election VBM ballot rejection reason reports similarly report that the top three reasons why a VBM ballot was rejected was due to 1) ballot arrived after the deadline, 2) a non-matching signature, and 3) no voter signature. The reports indicate that for the November 2022 statewide general election, 120,609 (1.22%) of VBM ballots were rejected, and for the March 2024 presidential statewide primary election, 108,982 (1.56%) of VBM ballots were rejected.

Additionally, in 2022 the SOS posted VBM ballot rejection reason reports for seven local elections and for 22 local elections in 2023. Similarly, the data from nearly all of the local elections VBM ballot rejection reason reports showed the same top three reasons for why VBM ballots were rejected and not counted.

- 4) **Statewide Ballot Measures:** The author may wish to consider amending the bill to require the SOS to publish VBM ballot rejection reason reports for every election for state ballot measures. In 2005 and in 2009, California held statewide special elections for the purpose of voting on statewide ballot measures only. Should such an election occur again, having VBM ballot rejection information may be helpful.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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