

Date of Hearing: August 29, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 2951 (Cervantes) – As Amended August 21, 2024

CONCURRENCE IN SENATE AMENDMENTS

SUBJECT: Voter registration: cancellation.

SUMMARY: Permits a county elections official who is canceling a voter's registration due to the death of the voter, from January 1 to June 30, 2025, to send the required notification of that cancellation *after* the registration is canceled, instead of sending it prior to the cancellation as is required by existing law. Requires the Secretary of State (SOS) to update the Legislature monthly on its progress in making changes to allow for these notices to be sent prior to the cancellation of a voter's registration.

The Senate amendments delete the Assembly-approved version of this bill, and instead:

- 1) Permit a county elections official, during the period of January 1, 2025 through June 30, 2025, when the official sends a required notice that a voter's registration is being canceled due to the death of the voter, to send that notice within 15 days either before or after the cancellation of the registration. Require a county elections official, beginning July 1, 2025, to send these notices between 15 and 30 days before canceling a person's registration due to the death of the voter.
- 2) Specify that the only information a county elections official may use as the basis for canceling a voter registration on the grounds that the mental incompetency of the person has been established is information provided by the SOS that the SOS receives from county court clerks, as specified.
- 3) Specify that the only information a county elections official may use as the basis for canceling a voter registration on the grounds that the person is currently imprisoned for conviction of a felony is information provided by the SOS that the SOS receives from the California Department of Corrections and Rehabilitation (CDCR), or information provided by a United States District Court or the Federal Bureau of Prisons, as specified.
- 4) Require the SOS to file monthly updates with relevant Senate and Assembly policy committees and budget subcommittees, as well as the Joint Legislative Audit Committee, on its progress in fully implementing specified provisions of law related to the notification of voters prior to the cancellation of those voters' registrations for specified reasons. Provide that the SOS may stop filing these updates once it certifies that it has taken all steps necessary to fully implement and administer those provisions.
- 5) Make minor, clarifying, and technical changes.

EXISTING LAW:

- 1) Requires each state, pursuant to the federal Help America Vote Act (HAVA), to maintain a statewide database of every legally registered voter in the state. (52 USC §21083)
California's federally-compliant database is known as VoteCal.
- 2) Requires a county elections official to cancel a person's voter registration in various situations, including as follows:
 - a) When the mental incompetency of the person is legally established, as specified.
 - b) Upon proof that the person is imprisoned for a felony conviction.
 - c) Upon the person's death.
 - d) Upon receipt of information that the person's residence address has changed, as specified. (Elections Code §2201(a))
- 3) Requires a county elections official, between 15 and 30 days before canceling a person's voter registration for any of the reasons specified above in 2), to send a forwardable notice to the person by first-class mail indicating that the person's registration is scheduled to be canceled, and informing the person how to contact the elections official if the person believes that the cancellation is an error. (Elections Code §2201(c))
- 4) Requires CDCR to provide the SOS with certain information on a weekly basis about people who are imprisoned for the conviction of a felony and under CDCR's jurisdiction. Requires the SOS to identify any voter registration record in VoteCal that matches information from CDCR pertaining to a person imprisoned for a felony conviction, as specified. Requires the SOS to provide any matched record to the relevant county elections official, and requires the elections official to cancel the voter registration of the person. (Elections Code §2212)
- 5) Requires the clerk of each county's superior court, at least monthly, to provide the SOS with certain information about people who the court has determined are disqualified from voting due to mental incompetency, as specified. Requires the SOS to identify any voter registration record in VoteCal that matches information from the superior court clerk pertaining to a person who is disqualified from voting due to mental incompetency, as specified. Requires the SOS to provide any matched record to the relevant county elections official, and requires the elections official to cancel the voter registration of the person. (Elections Code §2211.5)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs. State-mandated local program; contains reimbursement direction.

COMMENTS:

- 1) **Prior Assembly Consideration of This Bill:** As approved by the Assembly earlier this year, this bill would have changed the method by which the SOS notifies county elections officials of a voter's request for a recount of an election for statewide office or a statewide ballot

measure. Subsequent to the Assembly's approval, this bill was amended in the Senate to delete the Assembly-approved provisions and to add the current provisions, which were approved by the Senate by a vote of 31-8 on August 27, 2024. As a result, this bill has been re-referred to this committee for further consideration pursuant to Assembly Rule 77.2.

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

Assembly Bill 2841, which was enacted in 2022, provided guardrails against erroneous cancellations in voter registration caused by errors in reporting systems and overly aggressive purges of voter rolls. These include sending pre-cancellation notices to voters and providing them with the opportunity to cancel an erroneous cancellation of their voter registration. Since the bill's enactment, the Secretary of State's Office has implemented many of its provisions. However, the Secretary's Office requires additional time to make technological upgrades to VoteCal, the state's centralized voter registration database, in order to have the capacity to send pre-cancellation notices to voters when a court order indicates that their voter registration status has changed due to death or a change of address. Assembly Bill 2951 would provide that time by delaying implementation of those requirements of AB 2841 until July 1, 2025.

3) **Statewide Voter Registration Database:** In 2002, the federal government enacted HAVA to improve the administration of federal elections. As detailed above, HAVA required every state to implement a statewide voter registration database, which serves as the official list of eligible voters for any federal election held within the state. California's database—known as VoteCal—was fully deployed in 2016.

Although VoteCal maintains official voter registration information for all voters in all 58 California counties, each county elections official is responsible for maintaining the registrations of voters who are registered in that official's county. Each of California's 58 counties has its own election management system that is used to maintain the county's voter registration records, and which syncs with VoteCal on a regular basis. VoteCal accepts information from and sends information to the county systems to help ensure the voter registration rolls are accurate and up to date in part by comparing data across counties.

For example, when VoteCal sees a newly-registered voter in County A, it uses a series of matching criteria, including first and last name, date of birth, address, driver's license or state identification number, and the last four digits of the social security number, to find any existing voter records that may belong to the same person. If VoteCal identifies a voter record in County B that is highly likely to belong to the same voter based on the matching criteria, VoteCal automatically cancels the registration in County B. If *some* data points match, but there is not a sufficient match to conclude that it is highly likely to belong to the same voter, County B is asked to look at other data—such as the voter's signature on their voter registration card—to determine if the two records match and, if they do, County B cancels that voter's registration.

4) **Voter File Maintenance and Previous Legislation:** Part of the purpose of the HAVA requirement for states to have a statewide voter registration database is to ensure that voter

registration records are maintained and updated across the state in a uniform and nondiscriminatory manner. Due in part to concerns about inconsistencies in voter file maintenance procedures, recent legislation has sought to provide greater uniformity in the data used by counties to perform voter file maintenance.

Specifically, SB 504 (Becker), Chapter 14, Statutes of 2022, which was sponsored by the California Association of Clerks & Election Officials (CACEO) and supported by the SOS, sought to create a more uniform process for updating voter registration records when a person becomes ineligible to vote due to that person's incarceration for a felony conviction. Among other provisions, SB 504 created a new process to make the SOS the single point of contact for receipt of information from CDCR about people who are in prison for the conviction of a felony. The data that the SOS receives from CDCR is entered into VoteCal, which uses predefined matching criteria to find any records that match an existing voter registration and to inform counties when to cancel a voter registration record based on that data.

AB 2841 (Low), Chapter 807, Statutes of 2022, created a similar process for updating voter registration records when a person becomes ineligible to vote due to a court's determination that the person is disqualified from voting due to mental incompetency. Specifically, among other provisions, AB 2841 required county court records about people who the court has determined are disqualified from voting due to mental incompetency to be sent to the SOS. Similar to the process with data received from CDCR, those court records are entered into VoteCal, which uses matching criteria to identify any voter registrations that match the court data provided, and which then informs counties when to cancel a voter registration record.

- 5) **Notification Before Voter Registration Cancellation:** In addition to creating a uniform process for canceling the voter registrations of people who are disqualified from voting due to mental incompetency, AB 2841 also required county elections officials to notify a voter by mail between 15 and 30 days before canceling that person's voter registration for one of four specified reasons (mental incompetency, felony imprisonment, death, and certain changes of address). The author and proponents of AB 2841 argued that these pre-cancellation notices would help protect against erroneous cancellations due to faulty data or false matches between different agencies' records. AB 2841 had a delayed implementation date, and went into effect at the beginning of this year.

In January of this year, the SOS sent a memorandum to county elections officials outlining the process for voter registration cancellations under AB 2841. In that memo, the SOS noted that VoteCal cancels a voter's registration automatically when it is determined that there is a match between death records and a registration record in VoteCal. Accordingly, until changes are made to VoteCal, counties may be unable to send a cancellation notice to the voter *before* that cancellation occurs. Instead, the memo indicated that until VoteCal is modified, counties would need to send a *post-cancellation* notice rather than sending a notice 15 to 30 days before the cancellation of the registration.

This bill permits a county elections official, in cases where a voter has died, to send the notices mandated by AB 2841 either 15 to 30 days before canceling the voter's registration, or up to 15 days *after* canceling the registration. This "before or after" option would be

available to counties from January 1, 2025, to June 30, 2025, after which time the notices would be required to be sent prior to cancellation.

Although changes also need to be made to VoteCal to automate the process of sending pre-cancellation notices for cancellations due to mental incompetency, felony imprisonment, and certain changes of address, the SOS has developed a manual process that allows counties to send pre-cancellation notices to those voters consistent with the requirements of AB 2841.

The SOS states based on the information it has today and assuming there are “no intervening unforeseen circumstances,” it will be able to make the necessary changes to VoteCal to fully implement AB 2841 by the July 1, 2025, deadline it asked to be placed in this bill.

- 6) **Arguments in Support:** The sponsor of this bill, Secretary of State Shirley N. Weber, Ph.D., writes in support:

This bill is a follow-up to AB 2841 (Low), Chapter 807, Statutes of 2022, and will extend the implementation deadline for a specific requirement of that earlier legislation with respect to necessary system upgrades to VoteCal, the State of California’s centralized voter registration database. Specifically, this measure will extend to July 1, 2025, the deadline for implementation of upgrades to the VoteCal system, pertaining to voters whose registration status may be subject to change due to death. As of 2022, our office determined that it would not be possible to achieve full implementation of AB 2841 by January 1, 2024. Nonetheless, the Elections Division after a major effort has implemented most AB 2841 provisions through a manual process and continues to work toward full implementation by July 2025. Based on the information provided by SOS staff, and assuming no intervening unforeseen circumstances, we are confident that our office can achieve full implementation of AB 2841 by July 1, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Shirley N. Weber, Ph.D. (Sponsor)
California Association of Clerks & Election Officials

Opposition

None on file.

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