

Date of Hearing: August 29, 2024

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 3184 (Berman) – As Amended August 19, 2024

CONCURRENCE IN SENATE AMENDMENTS

SUBJECT: Elections: signature verification statements, unsigned ballot identification statements, and reports of ballot rejections.

SUMMARY: Requires that voters be given until the 26th day after this year's presidential general election to resolve specified issues with their vote by mail (VBM) ballots. Deletes a provision of existing law that requires the Secretary of State (SOS) to publish a report on the SOS's website for local elections that contains the number of rejected VBM ballots and the reasons for those rejections.

The Senate amendments add the following substantive provisions to the Assembly-approved version of the bill:

- 1) Provide all of the following, for the November 5, 2024, presidential general election only:
 - a) Prohibit a county elections official from certifying the results of the election prior to the 28th calendar day following the election, except as specified.
 - b) Require a county elections official to accept a completed signature verification statement, unsigned identification envelope statement, or combined signature verification and unsigned identification envelope statement, until 5 p.m. on the 26th calendar day following the election.
 - c) Provide that a county elections official is not required to continue the official canvass of the election for at least six hours per day, notwithstanding an existing law to the contrary, if the only ballots that a county elections official has left to count as part of the official canvass are VBM ballots for which a voter has an opportunity to verify or provide their signature in order for the ballot to be counted, as specified.
- 2) Repeal provisions of law that require a county elections official to include a VBM ballot signature verification statement and an unsigned identification envelope statement on the elections official's website, and instead require the elections official to include a single, combined VBM ballot signature verification statement and unsigned ballot identification envelope statement, along with instructions, on the elections official's website, as specified. Require the elections official to accept that combined statement from a voter for the purpose of verifying or providing their signature in order for the ballot to be counted, as specified. Permit an elections official to mail the combined statement to a voter in lieu of the signature verification statement or unsigned ballot identification envelope statement.
- 3) Clarify that the comparison of signatures by the elections official on a signature verification statement, unsigned ballot identification envelope statement, or combined statement to

signatures that are part of the voter's registration record are subject to the same standards and requirements as the comparison of signatures on a VBM ballot identification envelope to signatures that are part of the voter's registration record.

- 4) Clarify that information about voters who did not sign a VBM ballot identification envelope or whose signature on the VBM ballot identification envelope did not compare with the voter's signature on file shall be provided in the same manner, and subject to the same restrictions, as voter registration information.
- 5) Add an urgency clause, allowing this bill to take effect immediately upon enactment.
- 6) Add double-jointing language to avoid chaptering problems with AB 884 (Low) of the current legislative session.
- 7) Make technical and conforming changes.

EXISTING LAW:

- 1) Requires an elections official to conduct a semifinal official canvass of each election by tabulating VBM and precinct ballots and compiling the results. Requires the semifinal official canvass to begin immediately upon the closing of the polls and to continue without adjournment until all precincts are accounted for. (Elections Code §15150)
- 2) Requires an official canvass of election results to commence no later than the Thursday following the election. Requires the official canvass to be open to the public and, for state elections, to result in a report of results to the SOS. Requires the official canvass be continued daily (except for Saturdays, Sundays, and holidays) for not less than six hours each day until completed. (Elections Code §15301)
- 3) Requires the official canvass of election results to include various tasks, including the following:
 - a) Processing and counting any valid VBM and provisional ballots not included in the semifinal official canvass.
 - b) Counting any valid write-in votes.
 - c) Reporting final results to the governing board and the SOS, as required. (Elections Code §15302)
- 4) Requires the elections official to prepare a certified statement of the results of an election and submit it to the governing body within 30 days of the election, except as specified. (Elections Code §15372) Requires a county elections official to send to the SOS the vote given for all persons for electors of President and Vice President of the United States within 28 days after the election. (Elections Code §15375(d))
- 5) Requires a county elections official, upon receiving a VBM ballot, to compare the signature on the VBM ballot identification envelope with a signature appearing on any affidavit of

- registration of the voter, or on any form issued by an elections official that contains the voter's signature and is part of the voter's registration record. (Elections Code §3019(a)(1))
- 6) Establishes presumptions and rules that govern the comparison of signatures pursuant to a specified section of the Elections Code, which provides for the comparison of signatures in the following circumstances:
 - a) Comparing the signature on a VBM ballot identification envelope to signatures that are part of the voter's registration record.
 - b) Comparing the signature on a signature verification statement with signatures that are part of the voter's registration record.
 - c) Comparing the signature on an unsigned identification envelope statement with signatures that are part of the voter's registration record. (Elections Code §3019(a)(2))
 - 7) Provides that if the elections official determines, upon comparing signatures, that the signature on the VBM ballot identification envelope possesses multiple, significant, and obvious differing characteristics when compared to all signatures in the voter's registration record, the signature is subject to additional procedures that provide that a signature shall be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record. (Elections Code §3019(c))
 - 8) Requires, in the case of a VBM ballot identification envelope that was not signed by the voter, or in the case of an identification envelope that was signed but where the signature on the envelope did not compare to the signatures on file for the voter as detailed above in 7), that the voter be sent an unsigned identification envelope statement or a signature verification statement by which the voter may verify under penalty of perjury that the voter completed and returned the VBM ballot in question. Requires this notice to be sent not later than eight days prior to the certification of the election. Requires the elections official to post the unsigned identification envelope statement and signature verification statement on the elections official's website. Provides that a voter's VBM ballot shall not be rejected if the voter submits a completed unsigned identification envelope statement or signature verification statement by 5 p.m. two days prior to the certification of the election and the signature on that statement compares to a signature on file in the voter's registration record, as specified. (Elections Code §§3019(d), 3019(e))
 - 9) Provides that the home address, telephone number, e-mail address, precinct number, or other number specified by the SOS for voter registration purposes, and prior registration information shown on the voter registration affidavit for all registered voters, are confidential, and shall not be disclosed to any person, except that such information shall be provided with respect to any voter to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the SOS, as specified. Provides that information regarding voters who did not sign a VBM ballot identification envelope or whose signature

on the VBM ballot identification envelope did not compare with the voter's signature on file shall be treated as confidential voter registration information pursuant to these provisions, and shall not be disclosed to any person except as provided by these provisions. (Elections Code §2194)

FISCAL EFFECT: Unknown. 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 proposed to delete a provision of existing law that requires the SOS to publish a report on the SOS's website for local elections that contains the number of rejected VBM ballots and the reasons for those rejections. Subsequent to the Assembly's approval, this bill was amended in the Senate to add additional, substantive provisions to the Assembly-approved version of the bill. The provisions added in the Senate have not been heard in a policy committee in the Assembly during the current legislative session. As a result, this bill has been re-referred to this committee for further consideration pursuant to Assembly Rule 77.2.

The Senate approved this bill by a vote of 31-0 on August 22, 2024.

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

In our last general election in November 2022, nearly 50% of rejected vote by mail ballots were for either a missing or non-matching signature. That amounted to nearly 60,000 ballots. Right now, if there is a mismatching or missing signature on the vote by mail ballot envelope, our elections officials notify the voter of the problem, how to correct the issue, and that the voter has until 5 p.m. two days prior to the certification of the election. However, because there is not a uniform date when counties certify elections, a voter may not have a date certain by which to make the correction and could inadvertently miss the deadline. AB 3184 would provide voters with greater certainty if they are notified of signature issues this November, ensuring that everyone is operating on a level playing field.

- 3) **VBM Ballots and Identification Envelope Signature Cure Process:** Under California law, a VBM ballot must be verified by the elections official before it can be counted. That verification includes a comparison of the signature on the VBM ballot identification envelope with the signatures that are part of the voter's registration record to confirm that the voter who was issued the VBM ballot is the voter who completed and returned the ballot.

It is not uncommon for a VBM ballot to be returned in an envelope that is missing the voter's signature or with a signature that doesn't compare to signatures in the voter's record. At the November 2022 statewide general election, for instance, nearly 48,000 VBM ballots that were returned by voters to elections officials were unable to be counted because the signature on the return envelope did not compare to the signatures on file, and nearly 12,000 VBM ballots were rejected because the return envelope was not signed by the voter. In the last several years, the Legislature has taken a number of steps to reduce the number of VBM

ballots that are rejected for these reasons.

Notably, AB 477 (Mullin), Chapter 726, Statutes of 2015, and SB 759 (McGuire), Chapter 446, Statutes of 2018, created processes for a voter to verify their VBM ballot if the voter failed to sign the VBM ballot return envelope, or if the signature on that envelope did not compare to the signatures in the voter's registration record. These processes are commonly referred to as "cure processes," and the forms used by voters to verify their ballots as a part of these processes are commonly referred to as "cure forms." Existing law provides that a voter must be permitted to complete either cure process until at least 5 p.m. two days prior to the certification of the election.

Elections officials are not required to certify election results *on* a specific day, but instead must certify results *no later than* a specified deadline. As a result, the deadline for a voter to complete these cure processes varies from county to county, depending on when each county certifies its election results. For the November 2022 statewide general election, at least 42 of the 58 counties finalized their election results before the 30th day after the election, though 34 counties (including the 11 counties with the largest number of registered voters) appear to have finalized their results on the 27th day after the election or later.

For this year's presidential general election only, this bill would provide a uniform certification deadline—and a uniform deadline for voters to complete the cure process—in all California counties. Although existing law does not have a uniform deadline for voters across the state to cure problems with their VBM ballots, there is a uniform policy for the minimum amount of time that a voter must be given to cure a problem with their VBM ballot after being notified of that problem. Specifically, existing law requires elections officials to notify such voters not less than eight days before the elections official certifies the election.

As detailed above, county elections officials are required to submit presidential election results to the SOS by the 28th day after the election. This bill prohibits counties from certifying this year's general election before that date, except as specified, and requires all counties to allow voters to cure problems with their VBM ballots until the 26th day after the election. According to an elections calendar prepared by the SOS for this November's presidential general election, the 26th day after the election is the last possible day for voters to cure problems with their VBM ballots under existing law.

While having a common certification date would create greater uniformity, prohibiting elections officials from certifying this November's election results before the 28th day after the election may force counties to extend the certification process even in situations where no additional ballots may end up being counted.

- 4) **Signature Comparisons:** State law establishes certain presumptions and rules that govern the comparison of signatures as part of the VBM ballot process. These rules specify that an exact signature match is not necessary to determine that signatures compare, and that the fact that signatures share similar characteristics is sufficient to determine that a signature is valid. The rules additionally require the elections official to consider explanations for discrepancies between signatures, including variations in signature style over time, and prohibits an elections official from rejecting a signature because the voter substituted their initials for

their first or middle name, among other provisions. These presumptions and rules apply to any comparison of signatures that is conducted pursuant to a specified section of law. That section provides for the comparison of signatures not only on a VBM ballot identification envelope to the signatures in the voter's registration record, but also to the comparison of signatures on a VBM ballot cure form to the signatures in the voter's registration record. Accordingly, state law clearly requires that the same presumption and rules that apply when comparing signatures from VBM ballot identification envelopes also apply when comparing signatures from VBM ballot cure forms. Notwithstanding that fact, in order to resolve any potential ambiguity over that point, this bill expressly states that the presumptions and rules for signature comparisons apply when comparing signatures from VBM ballot cure forms.

- 5) **Access to Voter Information:** Existing law provides that certain information from a voter's registration records is confidential, but shall be made available for specified election, scholarly, journalistic, political, or governmental purposes. The same section of law also provides that information regarding voters whose VBM ballots are subject to the ballot cure process shall be treated as confidential voter registration information, and shall not be disclosed except as provided in that section of law. Accordingly, state law clearly requires that information about voters whose VBM ballots are subject to the ballot cure process shall be subject to the same rules that govern access to voter registration records. Notwithstanding that fact, in order to resolve any potential ambiguity over that point, this bill expressly states that information about voters who did not sign a VBM ballot identification envelope or whose signature on the VBM ballot identification envelope did not compare with the voter's signature on file shall be provided in the same manner, and subject to the same restrictions, as voter registration information.
- 6) **Vote by Mail Ballot Rejection Reports:** SB 503 (Becker), Chapter 319, Statutes of 2021, required that the SOS uniformly report the number of VBM ballots rejected and the reasons why those ballots were rejected. 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 local elections is inconsistent with existing law.

- 7) **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. The data from nearly all of the local elections VBM ballot rejection reason reports showed the same top three reasons why VBM ballots were rejected and not counted.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file.

Opposition

None on file.

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