

Date of Hearing: March 26, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 502 (Pellerin) – As Amended March 5, 2025

SUBJECT: Elections: certified mail.

SUMMARY: Eliminates requirements that certain notices required by the Elections Code must be sent by registered mail, and instead requires those notices to be sent either by electronic delivery or certified mail. Specifically, **this bill:**

- 1) Deletes a requirement for the Secretary of State (SOS) or a county elections official, when the SOS or the official receives service of process for a candidate, to forward a copy of that information to the candidate via special delivery registered mail with return receipt requested, and instead requires the copy be forwarded by certified mail with return receipt requested.
- 2) Deletes a requirement that the SOS use registered mail to notify the chairperson of the state central committee of a political party when the SOS has determined that the party is disqualified to participate in a primary election or a presidential general election, and instead requires the SOS to use certified mail to send that notice.
- 3) Deletes requirements that certain communications between local elections officials and the SOS related to local candidate elections be made by registered mail, and instead requires those communications to be made by electronic delivery, with the recipient of each communication providing written confirmation by electronic delivery of receipt of that communication.
- 4) 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. Requires each elections official to provide written confirmation by electronic delivery to the SOS of the receipt of such notification.
- 5) Deletes a requirement that specified notices related to election contests be sent by registered mail, and instead requires those notices to be sent by certified mail.
- 6) Makes technical and conforming changes.

EXISTING LAW:

- 1) Provides that any process in any action or proceeding against a candidate may be served on the SOS or county elections official with whom the candidate filed official candidacy documents, as specified. Requires the SOS or the county elections official, upon receipt of such service, to immediately forward it to the candidate by special delivery registered mail with return receipt requested. (Elections Code §12)

- 2) Requires the SOS, when the SOS determines that a political party is disqualified to participate in a primary election, as specified, to serve a notice of intention to disqualify the party by registered mail on the chairperson of the state central committee of the party. (Elections Code §5200)
- 3) Requires that candidates' names appear on the ballot in an order that is determined by a randomized alphabet drawing, as specified. Requires the SOS to conduct a randomized alphabet drawing at specified times for specified election dates. Requires a local government to notify the SOS by registered mail if it will elect candidates on any other date so that the SOS can conduct a randomized alphabet drawing for that election, as specified. Requires the SOS to communicate the results of the drawing to the local government by registered mail, as specified. (Elections Code §13113)
- 4) Permits a voter to request a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide, as specified. 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)
- 5) Requires an elector who seeks to contest the results of an election in court to serve a copy of the affidavit of the election contest on the defendant by registered mail, in specified circumstances. (Elections Code §§16442, 16462)
- 6) Provides that whenever specified California codes require a notice or communication to be mailed by registered mail, the mailing of such notice or communication by certified mail shall be deemed sufficient compliance with the law. (Civil Code §17; Code of Civil Procedure §11; Corporations Code §8; Education Code §70; Financial Code §8; Labor Code §8; Probate Code §5; Public Utilities Code §8; Revenue and Taxation Code §36; Vehicle Code §29)
- 7) Provides that wherever the law requires a notice or communication to be mailed by registered mail to or by the state; any county, city, or district; or any officer or agency thereof; the mailing of such notice or communication by certified mail shall be deemed to be a sufficient compliance with the requirements of such law. (Government Code §§8311, 53062)

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

COMMENTS:

- 1) **Purpose of the Bill:** According to the author, "AB 502 will ensure that elections-related communications can be delivered electronically or via the quicker certified mail option, rather than being required to be sent by registered mail."
- 2) **Registered Mail vs. Certified 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. Because of the additional security measures involved, registered mail is generally used for sending items with a high monetary value, or that otherwise are irreplaceable.

In 1955, the USPS created certified mail as an offshoot of the registered mail system. Certified mail was designed for the mailing of letters that are important to senders, and where documentation of delivery is important, but where the documents being mailed have no intrinsic monetary value. According to the USPS, certified mail was intended to “provide[] a way for citizens to send critical business and legal documents with similar visibility and accountability [as registered mail], but at a lower price.”

As detailed above, various provisions of the Elections Code require certain documents to be sent by registered mail. In many of those instances, the requirement for the documents to be sent by registered mail predates the creation of certified mail in 1955. The policy purpose of requiring documents to be transmitted via registered mail in those instances appears to be to ensure that there was documentation of the delivery of those documents to the intended recipients. That policy objective can similarly be met with the use of certified mail.

In fact, just four years after the creation of certified mail, SB 79 (Coombs), Chapter 426, Statutes of 1959, amended several California codes to permit certified mail to be used for sending any notice or communication that is otherwise required by those codes to be mailed by registered mail. Subsequently-enacted legislation added similar provisions to other California Codes. The Elections Code, however, contains no such provision.

The Government Code allows communications sent to or from a state or local government agency to be sent by certified mail where the law otherwise requires the use of registered mail. Those provisions appear to apply to some of the communications that the Elections Code requires to be sent by registered mail. However, communications related to election contests that the Elections Code requires to be sent by registered mail generally are sent between two non-governmental entities. Accordingly, it appears that the law requires those communications to be sent by registered mail, notwithstanding various other provisions of law that allow certified mail to substitute for registered mail in many situations.

This bill would eliminate all requirements in the Elections Code that certain notices be sent by registered mail. In the case of notices being sent by governmental entities to private parties (e.g., candidates and political party officers), or communications sent between private parties, this bill instead requires those communications to be sent by certified mail. In the case of communications between governmental entities, this bill requires the communications to be sent by electronic delivery, and requires the recipient to confirm receipt via electronic delivery.

- 3) **Federal Law and Registered Mail:** In February 2020, the United States Justice Department Office of Legal Counsel (OLC) issued an opinion related to a requirement in federal law that states must transmit certain information related to presidential electors to the Archivist of the United States by registered mail (44 Op. O.L.C. 138 (2020)). In that opinion, issued in

response to a request from the General Counsel to the National Archives and Records Administration, the OLC concluded that states were required to use the USPS's registered mail service for sending those documents, and noted that while Congress had enacted several laws to authorize the use of certified mail in addition to registered mail for the transmission of many documents, it did not enact such a law for the specified documents related to presidential electors. The opinion also concluded, however, that the Archivist was not required to reject those documents if the relevant state officials transmitted them by some means other than registered mail.

The federal law requirements that states use registered mail to transmit specified documents related to presidential electors subsequently were repealed in December 2022 by the Electoral Count Reform and Presidential Transition Improvement Act of 2022 as part of the Consolidated Appropriations Act, 2023 (H.R. 2617).

- 4) **Arguments in Support:** In support of this bill, the California Association of Clerks and Election Officials notes that it will “simplify and speed official communications between counties and the Secretary of State.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials

Opposition

None on file.

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