

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 16 (Alanis) – As Introduced December 2, 2024

SUBJECT: Vote by mail ballots: processing.

SUMMARY: Removes discretion from county elections officials on whether to begin to process vote by mail (VBM) ballot return envelopes and ballots prior to the election, and instead requires elections officials to begin to process those materials before election day. Specifically, **this bill:**

- 1) Requires elections officials to begin to process VBM ballot return envelopes on the date on which ballots are mailed, rather than *permitting* elections officials to begin 29 days before the election, as is the case under existing law.
- 2) Requires elections officials to begin to process VBM ballots on the date on which ballots are mailed, rather than *permitting* elections officials to begin on the 29th day before the election, as is the case under existing law. Repeals a requirement that a jurisdiction must have “the necessary computer capability” in order to begin to process VBM ballots before 5 p.m. on the day before the election.
- 3) Makes technical and conforming changes.

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. Requires the elections official to begin mailing VBM ballots not later than 29 days before the election, as specified. (Elections Code §§3000.5, 3001, 3010)
- 2) Permits any jurisdiction to process VBM ballot return envelopes beginning 29 days before the election. Provides that processing VBM ballot return envelopes may include verifying the voter’s signature on the envelope and updating voter history records, as specified. (Elections Code §15101(a))
- 3) Permits any jurisdiction having the necessary computer capability to start processing VBM ballots on the 29th day before the election. Provides that processing VBM ballots includes opening VBM return envelopes, removing ballots, duplicating damaged ballots, and preparing ballots to be machine read, or machine reading them, including processing write-in votes so that they can be tallied by the machine. Prohibits a vote count from being accessed or released until 8 p.m. on the day of the election. Requires all other jurisdictions to start processing VBM ballots at 5 p.m. on the day before the election. (Elections Code §15101(b))

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

COMMENTS:

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

Recent elections have revealed a significant deficiency in our ability to process and count vote-by-mail ballots in a timely manner. In the 2024 general election... more than 9.3 million votes were cast by mail or early in-person voting. The sheer volume of ballots requires additional verification steps, and unfortunately, that's led to delays in providing election results to the public. In fact, it took nearly a month before California could declare winners in key races like the 13th Congressional District and the 58th Assembly District. Voters, candidates, and the public have grown increasingly frustrated with these delays, and that frustration undermines trust in our election system. AB 16 addresses this issue by requiring county election officials to begin processing and counting vote-by-mail ballots as soon as ballots are mailed. This will allow us to begin verifying signatures, processing ballots, and preparing them for machine counting without compromising the integrity of the election process. In the end, this bill is about transparency, efficiency, and public confidence in our elections. We owe it to our constituents to make sure that their voices are counted as quickly and accurately as possible.

2) **Processing Ballots and Reporting of Election Results:** As detailed above, the author of this bill argues that the speed at which California finalizes election results and certifies elections can undermine trust in the state's elections. While the desire to have final election results available sooner is understandable, the committee should consider whether there is an actual problem, rather than a perceived problem, with the current time frame to finalize election results.

To the extent that the committee believes that the speed at which election results are finalized is an actual problem that is in need of a policy solution, there are a variety of potential approaches to speeding the rate at which election results are finalized. Each of those approaches, however, would involve policy and/or budgetary tradeoffs. For example, significant additional funding for staff, ballot processing equipment, and processing facilities could help expedite election results.

As discussed in more detail below, existing law already allows county elections officials in California to process VBM ballot return envelopes and ballots before election day, and it appears that most (if not all) county elections officials already do so. Accordingly, it is unclear whether this bill would have a significant effect on the speed at which election results are finalized. On the other hand, this bill would allow elections officials to begin processing those ballots slightly earlier under circumstances, which could improve efficiency of elections officials' operations.

3) **Pre-Processing of VBM Ballots Return Envelopes and Ballots:** Unlike most ballots that are cast in-person at vote centers and polling places, VBM ballots generally are returned in envelopes that link the ballots back to the voters to whom they were issued, and must undergo additional verification before those envelopes can be opened. That verification

includes a comparison of the signature on each 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. Once that verification process is complete, the envelope can be opened and the ballot can be prepared for counting.

The issue of processing of VBM ballots (referred to as "absentee ballots" in some other states) prior to election day has gained increased national attention in recent elections, in part because some states do not allow elections officials to process VBM ballots prior to election day. In those states, the inability of elections officials to process ballots before election day can delay the reporting of election results, because verification of information on VBM ballot return envelopes can be time consuming. According to information from the National Conference of State Legislatures, seven states (Alabama, Mississippi, New Hampshire, Pennsylvania, South Dakota, West Virginia, and Wisconsin) and Washington D.C., do not permit elections officials to begin processing VBM ballots before election day.

California law, on the other hand, has allowed VBM ballots to be processed before election day since at least 1961 (those ballots were referred to as "absent voter ballots" under state law at the time). As detailed above, California law currently allows all county elections officials to begin processing VBM ballot return envelopes beginning 29 days before the election, and allows jurisdictions having the "necessary computer capability" to begin processing VBM *ballots* beginning the 29th day before the election.

In short, all 58 California counties have the ability under existing law to process both VBM ballot return envelopes and VBM ballots beginning on the 29th day before the election. While actual vote tallies from those VBM ballots cannot be accessed by any person (including the elections official) or released to the public until 8 p.m. on election day, counties are able to scan those ballots through the voting system prior to election day. Once the polls are closed, the elections official instructs the voting system to tabulate and release the results of those already-scanned VBM ballots. Those ballots typically are the first results released by county elections officials on election night, often within 20 minutes of the time that the polls close, and may represent a substantial portion of the total number of ballots that ultimately are cast in the election. The City and County of San Francisco, for example, released the results for nearly 48% of the total number of ballots cast in the county at the November 2024 statewide general election shortly after 8 p.m. on the night of the election.

As detailed above, the author of this bill has expressed concern that "[r]ecent elections have revealed a significant deficiency in our ability to process and count [VBM] ballots in a timely manner." While it is true that VBM ballots generally take more time to process and count than ballots cast at polling places or vote centers, it is not clear whether legal restrictions on the pre-processing of VBM ballot return envelopes and VBM ballots before election day have a significant effect on the speed at which VBM ballots are processed and election results are released after election day. Existing law allows elections officials to begin processing VBM ballots before election day, and allows verified VBM ballots to be run through ballot tabulators before election day, provided that the elections official does not access or release election results before 8 p.m. on the day of the election. By election day, county elections officials generally have processed a substantial majority of VBM ballots that

were received by the weekend before the election, and have run those ballots through ballot tabulators.

A more significant barrier to including a larger number of VBM ballots in vote totals that are released on election night is the fact that a large number of VBM ballots are not returned until election day, or very shortly before. For example, a spokesperson for the Los Angeles County Registrar of Voters' office told the *New York Times* that voters dropped off 1 million VBM ballots on election day in the county at the November 2024 statewide general election. Due to other tasks that election workers had to perform on election day, the county was not able to begin the processing of those VBM ballot envelopes and ballots until after election day.

Furthermore, in an effort to ensure that voters are not disenfranchised due to delays in mail delivery, California law allows ballots that are mailed by election day to be counted as long as they are received by the elections official by the seventh day after the election. Elections officials obviously cannot begin processing those VBM ballot return envelopes and ballots before they have been received.

It appears, then, that logistical barriers are a larger factor than legal restrictions on the inability for county elections officials to count more VBM ballots prior to election day. As a result, other efforts may be more effective at increasing the speed at which VBM ballots are tabulated and results are released than the changes proposed by this bill. For example, a voter education campaign that encouraged voters to return their VBM ballots earlier, or to take advantage of in-person voting opportunities, could reduce the number of VBM ballots that need to be verified, processed, and counted after election day.

Similarly, more widespread implementation of a recently-enacted state law could reduce the number of VBM ballots that need to undergo signature verification. Specifically, AB 626 (Pellerin), Chapter 661, Statutes of 2023, allows a voter to go to an in-person voting location with their marked VBM ballot, sign the roster at the voting location, and place the marked VBM ballot into the ballot box without an envelope, if specified conditions are met. In this case, the voter is treated as an in-person voter, and because these ballots are placed into the ballot box without an envelope, the elections official does not need to verify a signature on a ballot return envelope before the ballot can be counted. Not all counties meet the conditions imposed by AB 626, however, so that option is not available to every voter in California.

However, while those changes may be more effective at increasing the speed at which VBM ballots are tabulated and results are released, they may also require additional resources or involve additional policy tradeoffs that are beyond the scope of this analysis.

- 4) **Elections Officials' Discretion and Potential Amendment:** Current law gives elections officials discretion on whether to pre-process VBM ballot return envelopes and VBM ballots, while this bill would remove that discretion and make such tasks mandatory beginning on the date that the county mails VBM ballots to voters. County elections officials generally strive to pre-process as many VBM ballots before election day as possible without compromising preparing for or conducting the election. As a result, it seems unlikely that removing this discretion will have a significant effect on the number of VBM ballots that are able to be

processed before election day.

This bill could, however, require elections officials to be less efficient in preparing for and conducting elections. For example, this bill could be interpreted to require a county elections official to begin processing VBM ballot return envelopes and VBM ballots even if only a small handful of VBM ballots have been returned. Under existing law, an elections official might wait until a critical mass of VBM ballots had been received before beginning processing of those ballots, so that staff and other resources can be used more efficiently when preparing for and conducting the election.

On the other hand, this bill does not require a county to *complete* the processing of VBM ballot return envelopes and ballots by any specific time; instead, it merely requires counties to *begin* that processing. Counties generally log returned VBM ballots as soon as they receive them, which is one of the steps involved in processing VBM ballot envelopes. As such, it appears that a county's logging of VBM ballots as soon as they are received would meet the requirement to *begin* to process VBM ballot return envelopes.

Nonetheless, to ensure that this bill does not create inefficiencies for elections officials, the committee may wish to consider amending this bill to reinstate county elections officials' discretion on when to begin processing VBM ballot return envelopes and ballots.

- 5) **Restriction on Pre-Processing of VBM Ballots:** The limitation that counties must have "necessary computer capability" in order to begin processing VBM ballots before the day before the election dates back to 1975, when some counties still tallied ballots manually rather than by a computerized voting system. This restriction appears to be intended to prevent those counties from manually tallying ballots before the day before the election, potentially due to concerns that the process of manually tallying ballots would make election results publicly available before election day. It appears, however, that no California county has conducted a full manual tally of all ballots cast at a statewide election since 1984. Accordingly, the language related to counties having "necessary computer capability" in order to begin processing VBM ballots earlier appears to be obsolete.
- 6) **Previous Legislation:** Until recently, state law required county elections officials to begin mailing VBM ballots to most voters on the 29th day prior to an election. AB 49 (Cervantes), Chapter 553, Statutes of 2019, however, required elections officials to begin sending VBM ballots *no later than* the 29th day before the election. As a result, some counties begin mailing VBM ballots earlier than the 29th day before the election. In those counties, some VBM ballots may be returned to the elections official before the 29th day before the election, which is the first day that existing law allows elections officials to begin processing VBM ballot return envelopes and VBM ballots that have been returned by voters.

This bill requires county elections officials to begin processing VBM ballot return envelopes and VBM ballots *on the date on which ballots are mailed*. That change may have a modest effect on elections officials' ability to pre-process VBM ballot return envelopes and ballots before election day.

- 7) **Related Legislation:** AB 5 (Berman), which is also being heard in this committee today, requires county elections officials to report election results for all ballots, except ballots requiring special processing, by the 10th day after the election.

AB 25 (DeMaio), which is also being heard in this committee today, requires an elections official to count all ballots, except provisional ballots and VBM ballots for which the voter has the opportunity either to verify their signature or to provide a signature, by no later than 72 hours after the election, among other provisions.

AB 1214 (Patterson), which is also being heard in this committee today, reduces the amount of time that elections officials have to complete the official canvass of the election and certify the election from 30 days to 21 days, among other provisions.

SB 3 (Cervantes) requires a county elections official, beginning the Thursday after an election, to post updated election results on their website at least twice a week, rather than once a week as is required under existing law, among other provisions. SB 3 is pending in the Senate Elections & Constitutional Amendments Committee.

SB 407 (Choi) requires elections officials to certify results within 10 days of an election, among other provisions. SB 407 is pending in the Senate Elections & Constitutional Amendments Committee.

- 8) **Arguments in Support:** In support of this bill, Election Integrity Project, California, writes, “While complete certification of election results cannot be produced by California in a legitimate time frame until several laws are modified or eliminated, forbidding a delay in beginning to process ballots is a step in the right direction.”

REGISTERED SUPPORT / OPPOSITION:

Support

Election Integrity Project, California

Opposition

None on file.

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