

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 1072 (Pellerin) – As Introduced February 20, 2025

SUBJECT: Elections: ballot mistakes.

SUMMARY: Requires the Secretary of State (SOS), in consultation with county elections officials, to develop uniform standards and guidelines for a voter to correct mistakes made on the voter's ballot. Permits the SOS to adopt appropriate regulations for the purpose of ensuring uniform application of the standards and guidelines.

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 vote by mail (VBM) ballots no later than 29 days before the election, as specified. (Elections Code §3000.5)
- 2) Requires an elections official to provide a replacement ballot to any voter upon receipt of a replacement ballot request from the voter. Requires the voter making the request to provide to the elections official personal identifying information that matches the information contained on the voter's affidavit of registration, including their first and last name, residence address, and date of birth, and requires an elections official, prior to issuing a replacement ballot, to advise the requester as follows: "Only the registered voter themselves may request a replacement ballot. A request for a replacement ballot that is made by any person other than the registered voter is a criminal offense." (Elections Code §3014(a))
- 3) Requires an elections official to provide a replacement ballot to the voter's representative upon receipt of a written request, on a form prescribed by the SOS, signed by the voter under penalty of perjury, requesting that a ballot be provided to the voter's representative. Prohibits a ballot from being provided until both of the following occur: the elections official compares the signature on the written request with the signature or signatures in the voter's record, and the authorized representative signs an acknowledgment of receipt of the voter's ballot. (Elections Code §3014(b))
- 4) Requires an elections official to keep a record of each VBM ballot sent to and received from a voter and to verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice. (Elections Code §3014(d))
- 5) Permits instructions to voters that are printed on the ballot to include warnings and checks to help voters mark their ballot correctly and avoid errors, and makes ballot instruction recommendations. (Elections Code §13204)
- 6) Requires a voter, if they spoil or deface a ballot, to at once return it to the ballot clerk and receive another ballot. Prohibits a voter from receiving more than a total of three ballots, including their original ballot. (Elections Code §14288)

FISCAL EFFECT: Unknown

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

It is commonplace for a voter to mismark their ballot. When someone is voting in-person at a polling place or vote center, that voter can ask poll workers for advice on how to correct the error, or can easily request a replacement ballot. However, if a person is marking their mail ballot at home and makes a mistake, that voter may not intuitively know how to fix that mistake so that the ballot can be counted accurately.

Furthermore, someone who is completing a ballot at home may be less likely to request a replacement ballot when they make a mistake, given the amount of time that it may take to get a replacement ballot mailed to them. When a voter reaches out to their elections official for advice on how to fix a mistake before returning their ballot, elections officials generally do a good job of educating voters about the options for correcting that mistake. But the advice and instructions on how to fix an error vary from county to county.

Providing and promoting best practices for fixing common ballot errors will help minimize ambiguity, and increase voters' confidence that their ballot will be counted correctly.

2) **Ballot Mistakes and Replacement Ballots:** It is commonplace for a voter to mismark their ballot. When this occurs, existing law permits a registered voter to request a replacement ballot. A replacement ballot also may be requested if the voter did not receive their VBM ballot, or lost, destroyed, or made a mistake on the original ballot. In order to receive a replacement ballot, a voter must submit a request or application for a replacement ballot to their county elections office by phone, email, fax, or other electronic means. Once the application is verified and approved, a replacement ballot is mailed to the voter. Most county elections officials make the replacement ballot application available on their internet website. Others provide an interactive application to request a replacement ballot. For instance the Santa Clara County Registrar of Voter's website has an interactive application that allows a voter to request a replacement ballot by providing certain personal identifying information, such as the voter's date of birth, last four digits of their Social Security number and their driver's license or state identification card number, among other information, that must match the information contained on the voter's affidavit of registration prior to being issued a replacement ballot.

Generally, if an individual is voting in-person at a polling place or vote center, that voter can ask poll workers for advice on how to correct an error, or can easily request a replacement ballot. If a person is marking their mail ballot at home and makes a mistake, a voter has the option to go to a polling location to obtain a replacement ballot or apply for one. However, a voter who is completing a ballot at home may be less likely to request a replacement ballot when they make a mistake, given the amount of time that it may take to get a replacement ballot mailed to them. According to the author, because a voter may not intuitively know how to fix a mistake on their ballot so that the ballot can be counted accurately, it is common for the voter to reach out to their elections official.

According to the author, when a voter reaches out to their elections official for advice on how to fix a mistake before returning their ballot, elections officials generally do a good job of educating voters about the options for correcting that mistake. However, during the November 2024 general election, media reports pointed out there is no uniform approach to correcting a mistake on a voter's ballot. In particular, a report by public radio station KQED, found that the advice and instructions on how to fix an error vary from county to county. For instance, some county elections officials provide detailed guidance to voters, while others simply recommend that the voter request a replacement ballot.

The author contends that providing and promoting best practices for fixing common ballot errors will help minimize ambiguity, and increase voters' confidence that their ballot will be counted correctly. Accordingly, this bill requires the SOS to collaborate with county elections officials to develop uniform standards and guidelines for a voter to correct mistakes made on the voter's ballot. These uniform standards will provide more consistent guidance to voters on how to fix and correct common ballot mistakes that are made.

3) **Arguments in Support:** In support of this bill, the California Voter Foundation, writes:

In recent years, with the implementation of universal vote-by-mail balloting, California voters increasingly have struggled to figure out what to do when they make a mistake when filling out their vote-by-mail ballot or envelope. While election offices do their best to assist voters, it is not always easy for voters to get assistance from county election office staff during busy election times, or during the workday when voters may not be free to make inquiries due to work or school obligations...

KQED also surveyed all the Bay Area counties in the last election and found counties responded to this question differently. Some advised voters to get a new ballot, others advised to cross out the mistake...As the Chief Election Official of California, the Secretary of State is the most obvious source for providing consistent guidance and standards for voters and counties alike to follow. Helping voters quickly determine how to correct ballot mistakes can also help voters who get stuck in their voting process move ahead and cast their ballots without further delay. If enacted, AB 1072 will help accelerate the voting process, and give voters a more satisfying voting experience and vote with confidence.

- 4) **Related Legislation:** AB 1164 (Ransom), which is also being heard in this committee today, requires the Voter Bill of Rights to inform voters that they can request a replacement ballot from a polling place worker or the elections official in the county, as specified.
- 5) **Previous Legislation:** AB 398 (Pellerin), Chapter 650, Statutes of 2023, allows an elections official to provide a replacement VBM ballot to a voter without the need for the voter to provide a specified statement under penalty of perjury, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

California Voter Foundation

Opposition

None on file.

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