

Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
AB 1164 (Ransom) – As Amended March 18, 2025

AS PROPOSED TO BE AMENDED

SUBJECT: Elections: Voter Bill of Rights.

SUMMARY: Requires the Voter Bill of Rights (VBOR) to inform voters of their right to receive a replacement ballot. Specifically, **this bill:**

- 1) Requires the VBOR to inform a voter that they can request a replacement ballot and requires the following specified language to be included in the VBOR:
 - a) You have the right to receive a replacement ballot if, before casting your ballot, you made a mistake or do not have your ballot.
 - i) If you made a mistake on your ballot, you have the right to exchange it for a new ballot before the closing of the polls. You may return your ballot to a polling place worker or your county elections official and receive a replacement ballot.
 - ii) If you do not have your ballot, you may request a replacement ballot before the closing of the polls.
 - b) If you surrender your ballot at your polling place or if the elections official in your county confirms that you have not yet voted, you may request a polling place ballot.
- 2) Makes technical changes.

EXISTING LAW:

- 1) Requires the VBOR to be printed in the state voter information guide sent to all voters with printed copies supplied by the Secretary of State (SOS) for conspicuous posting both inside and outside of every polling place. Requires the VBOR to read as follows:
 - a) You have the right to cast a ballot if you are a valid registered voter. A valid registered voter means a United States (U.S.) citizen who is a resident in this state, who is at least 18 years of age and not serving a state or federal prison term for conviction of a felony, and who is registered to vote at their current residence address.
 - b) You have the right to cast a provisional ballot if your name is not listed on the voting rolls.
 - c) You have the right to cast a ballot if you are present and in line at the polling place before the close of the polls.
 - d) You have the right to cast a secret ballot free from intimidation.

- e) You have the right to receive a new ballot if, before casting your ballot, you believe you made a mistake. If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. VBM voters may also request and receive a new ballot if they return their spoiled ballot to an elections official before the closing of the polls.
 - f) You have the right to receive assistance in casting your ballot, if you are unable to vote without assistance.
 - g) You have the right to return a completed VBM ballot to any precinct in the county.
 - h) You have the right to election materials in another language, if there are sufficient residents in your precinct to warrant production.
 - i) You have the right to ask questions about election procedures and observe the election process. You have the right to ask questions of the precinct board and elections officials regarding election procedures and to receive an answer or be directed to the appropriate official for an answer. However, if persistent questioning disrupts the execution of their duties, the precinct board or elections officials may discontinue responding to questions.
 - j) You have the right to report any illegal or fraudulent activity to a local elections official or to the SOS's office. Beneath the VBOR there shall be listed a toll-free telephone number to call if a person has been denied a voting right or to report election fraud or misconduct. (Elections Code §2300)
- 2) Allows the SOS to do both of the following:
- a) Develop regulations to implement and clarify the VBOR.
 - b) Revise the wording of the VBOR as necessary to ensure the use of clear and concise language free from technical terms. (Elections Code §2300(c))
- 3) 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 the 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))
- 4) 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))

- 5) Requires an elections official to keep a record of each VBM voter 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))
- 6) 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)
- 7) 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) **Author Amendments:** After the committee's deadline for pre-committee author's amendments, and based on discussions between the author and the committee chair, the author has agreed to accept amendments that amend the VBOR replacement ballot provisions to clarify a voter's right to a replacement ballot in clear, plain language. The analysis reflects the author's amendments. Committee staff recommends the following amendments:

On page 2, strike lines 19 through 37, inclusive, and on page 3, strike lines 1 through 12 inclusive, and insert the following:

(5) (A) You have the right to receive a replacement ballot if, before casting your ballot, you made a mistake or do not have your ballot.

(i) If you made a mistake on your ballot, you have the right to exchange it for a new ballot before the closing of the polls. You may return your ballot to a polling place worker or your county elections official and receive a replacement ballot.

(ii) If you do not have your ballot, you may request a replacement ballot before the closing of the polls.

(B) If you surrender your ballot at your polling place or if the elections official in your county confirms that you have not yet voted, you may request a polling place ballot.

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

As the most populous state in the country, California faces a significant undertaking when we hold our elections. While our election officials work tirelessly to ensure that our elections are secure and the voice of our voters is heard, voters themselves are in need of greater clarity when it comes to their rights. AB 1164 provides that clarity for our millions of voters, ensuring they know their right to a new ballot when theirs is lost, destroyed, was not received, or could not be surrendered. AB 1164 is a straightforward bill which ensures that

voters know what a spoiled ballot is, how to properly surrender their spoiled ballot, and both when and where they may receive a replacement.

- 3) **Voter Bill of Rights and Previous Legislation:** In 2003, AB 177 (Oropeza), Chapter 425, Statutes of 2003, established the VBOR and enumerated the rights of voters. According to previous analyses, the sponsor of AB 177, Secretary of State Kevin Shelley, wrote that "Voters, and often poll workers, are unfamiliar with what rights a voter has. AB 177 provides for a listing of voter's basic rights, and requires that voters receive notification of these rights both in the sample ballot and at their polling places."

Thus in accordance with current law the SOS makes the VBOR available before each election, on Election Day, and requires the VBOR to be printed verbatim in the state voter information guide and on posters or other printed materials included in precinct supplies.

In 2015, SB 505 (Mendoza), Chapter 236, Statutes of 2015, authorized the SOS to revise the wording of the VBOR as necessary to ensure that the language used is clear and concise and free from technical terms. According to previous analyses, the provisions of the VBOR used terminology that was difficult for many voters to understand and inadvertently presented a challenge to voters who were trying to understand the law as it affects them. Additionally, this posed a particular obstacle for voters for whom English is a second language or whose education stopped at or prior to the twelfth grade. Prior to SB 505, the SOS had limited authority to ensure that election materials were prepared and provided in plain language. SB 505 helped ensure that voters are better informed about their key electoral rights under state law by formally allowing the SOS to inform voters using plain language text to describe the VBOR.

According to the author and sponsor, the SOS has received anecdotal evidence in the form of voter inquiries and complaints received on their hotline regarding replacement ballots and the ability to obtain one. Accordingly, this bill requires the circumstances and scenarios under which a voter is entitled to a replacement ballot to appear in the VBOR. According to the author, this will create uniform policies and reduce inconsistencies in ballot replacement procedures across jurisdictions.

As mentioned above, SB 505 was signed into law to ensure the wording of the VBOR was clear, concise, and free from technical terms. As currently in print, this bill would add substantial new language to the VBOR related to the process for receiving a replacement ballot. That new language may be at tension with a desire for keeping the VBOR clear and concise. Accordingly, the amendments that the author is accepting in committee today will remove descriptive replacement ballot provisions from the VBOR, and instead will clarify a voter's right to a replacement ballot in clear, plain language.

- 4) **Replacement Ballot:** As mentioned above, existing law permits a registered voter to request a replacement ballot if they did not receive their VBM ballot, or lost or destroyed 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 will be 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 Voters' internet website

has an interactive application that allows a voter to request a replacement ballot by providing certain personal identifying information, such as a 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.

5) **Arguments in Support:** In support, the League of Women Voters of California writes:

California has long recognized that empowering voters with clear, accessible information is central to maintaining a healthy democracy. In 2015, the League of Women Voters of California collaborated with the Secretary of State's office and the Center for Civic Design to improve the Voter Bill of Rights. At the time, we recognized that the existing language was overly complex and inaccessible to many voters. We used a community review process to rewrite the Voter Bill of Rights in plain language to make it more understandable for a diverse electorate, including those with limited English proficiency or low literacy levels. That effort demonstrated the importance of both guaranteeing voting rights and communicating them clearly and consistently. The rewritten Voter Bill of Rights which emerged from that collaboration helped to set a new standard for voter communication statewide.

AB 1164 provides language to guide an update to the Voter Bill of Rights that will help voters understand that they may request a replacement ballot not only when they make a mistake, but also when a vote by mail ballot has not been received, or has been lost, destroyed, or cannot be surrendered (turned in). Furthermore, the bill more clearly describes the term "spoiled ballot" which appears throughout the Elections Code. Currently the legislation reads "A spoiled ballot is a ballot that will not be used for voting because it has been damaged, which includes the voter making a mistake when marking it." We recommend a slight change for clarity to "A spoiled ballot is a ballot that cannot be counted because a voter made a mistake on it, or it was damaged for any reason."

Elec. Code § 2300 (c)(2) allows the Secretary of [S]tate to "[r]evis[e] the wording of the Voter Bill of Rights as necessary to ensure the use of clear and concise language free from technical terms." The League of Women Voters of California advocated for this flexibility in 2015 through SB 505 (Mendoza). We strongly recommend that the Secretary of State again work with us, and the Center for Civic Design, to develop specific language to include in the Voter Bill of Rights that will ensure that the intent of AB 1164 is realized. Properly phrased, the amended language can help standardize ballot replacement procedures across counties, minimize voter confusion at polling places, and support election workers in delivering consistent guidance.

6) **Related Legislation:** AB 1072 (Pellerin), which is also being heard in this committee today, requires the 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.

- 7) **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.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials (prior version)

Election Integrity Project California (prior version)

League of Women Voters of California (prior version)

Opposition

None on file.

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