

Date of Hearing: June 17, 2026

ASSEMBLY COMMITTEE ON ELECTIONS
Gail Pellerin, Chair
SB 970 (Cervantes) – As Amended May 21, 2026

SENATE VOTE: 29-1

SUBJECT: Military or overseas voters.

SUMMARY: Requires the Secretary of State (SOS) to promulgate regulations to facilitate the secure return of ballots from military or overseas voters delivered through secure methods.

EXISTING LAW:

- 1) Provides, pursuant to the California Constitution, that voting is secret. (California Constitution, Article II, §7)
- 2) Provides a person may vote if the person is a United States (US) citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election. (California Constitution, Article II, §2; Elections Code §2101)
- 3) Requires every active registered voter to receive a vote by mail (VBM) ballot for each election in which the person is eligible to vote. (Elections Code §3000.5)
- 4) Defines a “military or overseas voter” to mean an elector absent from the county in which they are otherwise eligible to vote who is any of the following:
 - a) A member of the active or reserve components of the US Army, Navy, Air Force, Marine Corps, or Coast Guard; a Merchant Marine; a member of the US Public Health Service Commissioned Corps; a member of the National Oceanic and Atmospheric Administration Commissioned Corps of the US; or a member on activated status of the National Guard or state militia.
 - b) A citizen of the US living outside of the territorial limits of the US or the District of Columbia.
 - c) A spouse or dependent of a person described in (a) above. (Elections Code §300)
- 5) Allows a military or overseas voter who is living outside of the territorial limits of the US or the District of Columbia, or is called for military service within the US on or after the final date to apply for a VBM ballot, to return their ballot by facsimile transmission. Requires the ballot returned by facsimile transmission, in order to be counted, to be received by the voter’s elections official no later than the closing of the polls on election day and be accompanied by an identification envelope containing specified information, including an oath of voter declaration acknowledging that by returning their voted ballot by facsimile transmission they have waived their right to have their ballot kept secret. (Elections Code §3106(a))

- 6) Requires an elections official, notwithstanding the voter's waiver of the right to a secret ballot, to adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission. (Elections Code §3106(b))
- 7) Requires an elections official, upon receipt of a ballot returned by facsimile transmission, to determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration or any other signature in the voter's registration record. Requires the ballot to be duplicated and all materials preserved. (Elections Code §3106(c))
- 8) Provides that even though a military or overseas voter is permitted to return their ballot by facsimile transmission they are nonetheless encouraged to return their ballot by mail or in person if possible. Provides that a military or overseas voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day. (Elections Code §3106(d))
- 9) Establishes the Office of Elections Cybersecurity and requires the office, among other duties, to coordinate with federal, state, and local agencies the sharing of information on threats to election cybersecurity, risk assessment, and threat mitigation in a timely manner and in a manner that protects sensitive information. (Elections Code §10.5)

FISCAL EFFECT: According to the Senate Appropriations Committee, the SOS indicates that it would incur first-year costs of \$1.3 million, and \$646,000 annually thereafter, to implement the provisions of the bill. According to SOS, cost drivers would include (1) updating publications, (2) system modifications, (3) regulatory development, and (4) ongoing security/compliance activities (General Fund).

COMMENTS:

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

At the core of our democratic ideals is the idea that all lawfully registered Americans should be able to exercise their right to vote, regardless of whether they are currently residing in the United States or not. This, of course, is an incredibly salient issue for overseas voters and voters who are currently deployed abroad as members of the U.S. Armed Forces. In 2025, the federal government announced that it was discontinuing the Department of Defense Fax Service through the Federal Voting Assistance Program, which allowed overseas voters and members of the Armed Forces to submit their ballot by fax. If the federal government will not do its part to ensure these voters have access to the franchise, then California must step up. Senate Bill 970 would allow the Secretary of State to work with stakeholders to create a process to allow military and overseas voters to submit their ballots through a secure method that balances security and our sacred right to vote.

- 2) **Military and Overseas Voters, Fax Ballot Return, and Previous Legislation:** A variety of factors can make the overseas voting process challenging, including the length of time it

takes for a mailed ballot to transit both to and from states, logistical obstacles in receiving and sending ballots, and the planning and effort involved with voting abroad. In 2009, President Obama signed into law the Military and Overseas Voter Empowerment (MOVE) Act to expand the 1986 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which was established to protect the rights of service members to vote in federal elections regardless of where they are stationed. The MOVE Act builds on UOCAVA to provide greater protections for service members, their families, and other overseas citizens.

The MOVE ACT requires states to provide blank absentee ballots to UOCAVA voters in at least one electronic format -- email, fax, or an online delivery system -- at least 45 days before an election, allowing a UOCAVA voter time to receive, mark, and return a paper ballot in a timely manner. Federal law does not require states to allow a military or overseas voter to submit their voted ballot electronically. However, California, similar to many other states, permits military and overseas voters to return their voted ballot by facsimile under certain circumstances. In California, a military and overseas voter who is living outside the territorial limits of the US, or is called for military service within the US on or after the final date to make an application for a VBM ballot, is permitted to return their ballot by fax. Current law, however, requires the faxed ballot to include a signed oath of voter declaration waiving their right to a secret ballot. The rationale for allowing certain military and overseas voters to return their completed ballot by facsimile was to ensure the enfranchisement of voters who would not have been able to participate otherwise due to the time necessary for mail delivery. In practice, this has included ballots sent using traditional fax machines as well as ballots transmitted through commercial electronic fax services (also known as an efax), which allow a voter to send a fax to a county elections office using a web-based platform. These ballots are received by elections officials as faxed documents and processed using the same procedures regardless of how the fax was generated.

- 3) **Military and Overseas Voters in California:** Since 2004, the US Election Assistance Commission (EAC) has conducted the Election Administration and Voting Survey (EAVS) following each federal general election. EAVS is a federally mandated survey that states are required to complete after every biennial federal election cycle. The survey collects information about ballots cast, voter registration, overseas and military voting, Election Day activities, voting technology, and other key aspects of election administration.

According to the 2024 EAVS, approximately 88,081 ballots were returned by UOCAVA voters in California for the November 2024 election. Of those ballots, 55,939 (63%) were returned by mail, while 29,552 (33%) were returned by fax. Of the ballots returned via fax, approximately 3,520 (11%) were from military voters, with the vast majority returned by overseas civilians.

- 4) **Federal Voting Assistance Program (FVAP):** When voting abroad, the FVAP provided assistance for service members, service members' families, and overseas citizens in voting in elections. Prior to 2025, as part of the program, the Department of Defense (DOD) Fax Service was available for those voters who could not send their election materials directly to their elections official. A voter was able to use the FVAP Transmission Cover Sheet and fax the proper election materials to a specific number. If a voter needed to send election materials by fax to the elections official and did not have access to a fax machine, the voter was able to

email their election materials to a specific email address and FVAP faxed the voter's election materials for the voter to the proper elections official.

On August 1, 2025, FVAP discontinued their DOD Fax Service. As a result, in California, a military or overseas voter must fax or mail their ballot directly to their elections official.

- 5) **What Does Secure Mean?** This bill requires the SOS to develop regulations for military and overseas voters to return ballots through "secure methods." However, the bill does not define what qualifies as a "secure ballot return method." Nor does the bill establish any specific requirements, standards, or criteria that a return method must meet in order to be considered secure. Furthermore, this bill gives substantial discretion to the SOS without clear guidance on the development of these regulations.
- 6) **Other States:** Some states, in an effort to address ballot return challenges for military and overseas voters, offer electronic ballot return as an alternative to relying on the postal service. According to the National Conference of State Legislatures, returning ballots electronically is most often reserved for UOCAVA voters (also referred to as military and overseas voters), as these voters can face unique challenges, such as unreliable foreign postal systems, in receiving and returning mail ballots by state deadlines. Thirty-one states, Washington, D.C., and the Virgin Islands allow UOCAVA voters to return a voted mail ballot by fax. Twenty-four states, Washington, D.C., and the Virgin Islands allow UOCAVA voters to return a voted mail ballot by email. Eleven states allow UOCAVA voters to return a voted mail ballot through an online portal. Some online portals allow voters to receive, mark and return their ballots entirely online, while others may require the voter to print the ballot, mark it, scan it and upload it back into the system as a PDF.

A few states allow electronic ballot return in other limited circumstances, such as during certain emergencies or natural disasters (Colorado) or for qualified first responders (Utah). In Louisiana, all absentee voters have the option of returning a voted absentee ballot by fax (note that in Louisiana, voters must provide a qualifying excuse to vote an absentee ballot).

This bill directs the SOS to develop regulations to facilitate the secure return of ballots from military and overseas voters, which could include electronic ballot return options.

- 7) **Security Concerns:** The use of electronic ballot return may help facilitate voting for remote groups like military and overseas voters, however, it is not without risk. In 2016, amid concerns about the state of US election infrastructure, the National Academies of Sciences, Engineering, and Medicine conducted a study regarding the future of voting in the US, which included documenting the current state of play in terms of technology, standards, and resources for voting technologies; examining the challenges arising out of the 2016 federal election; evaluating advances in technology currently and soon-to-be available that can improve voting; and offering recommendations that provide a vision of voting that is easier, accessible, reliable, and verifiable. Their efforts resulted in a 2018 consensus report entitled, "Securing the Vote: Protecting American Democracy." The comprehensive report provides that although internet voting offers convenience, it introduces new risks with regard to integrity and confidentiality for votes, as well as the potential for cyberattacks. The report states that several technologies are directly relevant to internet voting, including email and

most fax transmissions. The report recommends that “at the present time, the Internet (or any network connected to the Internet) should not be used for the return of marked ballots” and that “Internet voting should not be used in the future until and unless very robust guarantees of security and verifiability are developed and in place, as no known technology guarantees the secrecy, security, and verifiability of a marked ballot transmitted over the Internet.” In addition, the report recommends that EAC standards and state laws should be revised to support pilot programs to explore and validate new election technologies and practices, and election officials should be encouraged to seek expert and public comment on proposed new election technology before it is piloted.

In 2020, the National Institute of Standards and Technology, the EAC, the Federal Bureau of Investigation, and the Cybersecurity and Infrastructure Security Agency issued a report assessing the risks involved in electronic ballot delivery, marking, and return. The report recommended “paper ballot return as electronic ballot return technologies are high-risk even with controls in place.” The report further stated that electronic ballot return creates significant security risks to the confidentiality of ballot and voter data (e.g. voter privacy and ballot secrecy), integrity of the voted ballot, and availability of the system. However, the report also recognized that in light of the fact that “some election officials are mandated by state law to employ this high-risk process, its use should be limited to voters who have no other means to return their ballot and have it counted.” Additionally, the report states that electronic delivery of ballots to voters for return by mail is less vulnerable to systemic disruption.

- 8) **Previous Legislation:** SB 1480 (Glazer) of 2022 would have permitted the SOS to certify a remote accessible vote by mail system that allows a voter with a qualifying disability, as defined, to return their ballot electronically. The bill passed the Senate, but was not heard by the Assembly Committee on Elections.

- 9) **Arguments in Support:** In support of this bill, the County of Santa Clara, writes:

While county elections officials prepare and send ballots to UOCAVA voters registered in their district earlier than domestic voters to account for the additional time it can take for these voters to receive, vote, and return their ballots, recent federal changes have created significant challenges to ensuring UOCAVA ballots can be returned securely and on time. In 2025, the Department of Defense ended its Federal Voting Assistance Program e-fax service, which was previously recommended by state and local elections officials as a secure method of ballot return for UOCAVA voters. It has also become increasingly common for foreign countries to suspend or restrict mail service to the United States, and in March 2026, the United States Postal Service terminated mail service to several countries, including some locations of U.S. military bases. As a result, overseas and military voters are left to find their own solutions to returning their ballots on time, such as third-party e-fax services, whose security cannot be validated or controlled by the state or county elections offices.

Successful passage of SB 970 would address these inequities in voter access by requiring the Secretary of State to create regulations that facilitate the secure and

timely return of ballots cast by military and overseas voters. It would also require the development of standardized informational and voting materials for UOCAVA voters to guide counties in implementing a standardized, secure process. In the absence of reliable federal resources, California has an opportunity to take the steps necessary to ensure that military and overseas voters are able to securely exercise their right to vote.

10) Arguments in Opposition: All letters received in opposition to this bill were submitted prior to the most recent amendments, which deleted language that would have required the SOS to develop regulations governing the return of ballots by *electronic transmission*. Because opposition to this bill related to concerns about the electronic transmission of voted ballots, it is unclear whether the organizations listed below continue to oppose this bill. In a joint letter of opposition to the version of the bill that would have provided for the electronic transmission of ballots, the Brennan Center for Justice, California Voter Foundation, Free Speech for People, Public Citizen, and Verified Voting, wrote:

The security risks associated with electronic ballot return are severe, well-documented, and broadly acknowledged by the federal government's top security agencies and the nation's leading cybersecurity experts.

A joint analysis from the Cybersecurity and Infrastructure Security Agency (CISA), the Election Assistance Commission (EAC), the Federal Bureau of Investigation (FBI), and the National Institute of Standards and Technology (NIST), published in 2020, and again in early 2024, classifies electronic ballot return as high risk, capable of enabling attacks that could alter or disrupt election results at scale. As stated in their analysis, "Electronic ballot return faces significant security risks to the confidentiality, integrity, and availability of voted ballots. These risks can ultimately affect the tabulation and results and can occur at scale."

Congress shares these concerns. The U.S. Senate Select Committee on Intelligence concluded that no system of online voting has yet established itself as secure and urged states to resist adopting internet voting.

Independent cybersecurity experts mirror these findings. In 2022, a working group of cybersecurity and cryptography experts convened at the University of California, Berkeley to create standards to govern the security of internet voting systems instead concluded that "the current cybersecurity environment and state of technology makes it infeasible . . . to draft responsible standards." The group, chaired by former Department of Homeland Security secretary Janet Napolitano, determined that the technology required to secure online ballot return does not exist today, and that a single attacker could potentially alter thousands or even millions of votes. The group outlined that electronic ballot return also carries multiple unique vulnerabilities, including malware, denial-of-service attacks, spoofing, identity fraud, and breaches that could expose voters' private information. Any one of these could compromise an election; several could do so without detection. Currently, no federal certification standards exist for electronic

ballot return systems.

As recently as January 16, 2026, a coalition of computer scientists and security researchers issued a statement clarifying that, even with recent technological advances, electronic ballot return technology is still not yet suitable for use in public elections. According to their statement, “it has been the scientific consensus for decades that internet voting is not securable by any known technology. Research on future technologies is certainly worth doing. However, the decades of work on [electronic ballot return] systems has yet to produce any solution, or even any hope of a solution, to the fundamental problems.”

11) Double Referral: This bill is double referred to the Assembly Military and Veterans Affairs Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks & Election Officials (Sponsor) (prior version)
 American Legion, Department of California (prior version)
 AMVETS-Department of California (prior version)
 California Narcotic Officers' Association (prior version)
 California State Association of Counties
 California State Commanders Veterans Council (prior version)
 Citizens' Oversight (if amended) (prior version)
 County of Santa Clara
 Disability Rights California (if amended)
 Los Angeles County
 Military Officers Association of America-California Council of Chapters (prior version)
 Riverside Sheriffs' Association (prior version)
 Vietnam Veterans of America-California State Council (prior version)

Opposition

Brennan Center for Justice (prior version)
 California Secretary of State (prior version)
 California Voter Foundation (prior version)
 Free Speech for People (prior version)
 Indivisible California Green Team (prior version)
 Public Citizen (prior version)
 Former California Secretary of State Kevin Shelley (prior version)
 Verified Voting (prior version)

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