

Date of Hearing: June 13, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

SB 1171 (Stern) – As Introduced February 14, 2018

SENATE VOTE: 25-10

SUBJECT: Electors: conditional voter registration.

SUMMARY: Authorizes a county elections official to use a provisional ballot envelope as an affidavit of registration, as specified, and updates the definition of an "elector." Specifically, **this bill:**

- 1) Permits a county elections official to use a provisional ballot envelope as an affidavit of registration. Requires a county elections official who intends to use a provisional ballot envelope as an affidavit of registration to do all of the following:
 - a) Provide a provisional ballot envelope that sets forth the facts necessary to establish the voter as an elector and contains all of the information required to be on an affidavit of registration pursuant to existing law;
 - b) Print an affidavit number on the provisional ballot envelope; and,
 - c) Provide notice to the Secretary of State (SOS) no later than the 15th day before any election that provisional ballot envelopes will be used as affidavits of registration in that election.
- 2) Revises and updates the definition of an "elector" to include a person who is eligible to complete a conditional voter registration by deleting provisions of law that require an elector be a resident of an election precinct at least 15 days prior to an election and instead requires an elector to be a resident of an election precinct in California on or before the day of an election.
- 3) Makes technical changes.

EXISTING LAW:

- 1) Defines an "elector" to mean any person who is a United States citizen 18 years of age or older and, except as specified below, is a resident of an election precinct at least 15 days prior to an election. Provides that an "elector" also means any person who is a military or overseas voter, as defined, who, except for the residence requirement, is eligible to vote in California and meets any of the following conditions:
 - a) He or she was a resident of California when he or she was last living within the territorial limits of the United States or the District of Columbia; or,
 - b) He or she was born outside of the United States or the District of Columbia, his or her parent or legal guardian was a resident of California when the parent or legal guardian

was last living within the territorial limits of the United States or the District of Columbia, and he or she has not previously registered to vote in any other state.

- 2) Provides that no person shall be registered as a voter except by affidavit of registration.
- 3) Provides that no affidavits of registration other than those provided by the SOS to the county elections officials or the national voter registration forms authorized pursuant to the federal National Voter Registration Act shall be used for the registration of voters.
- 4) Provides that a properly executed affidavit of voter registration shall be deemed effective upon receipt by the elections official if postmarked or received on or before the 15th day prior to an election to be held in the registrant's precinct.
- 5) Authorizes a person who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day, as specified.
- 6) Requires county elections officials to offer conditional voter registration and provisional voting at its permanent offices, and permits them to offer this type of registration and voting at satellite offices on election day.
- 7) Provides that at all elections, a voter claiming to be properly registered to vote, but whose qualifications to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, is entitled to vote a provisional ballot.
- 8) Requires an elections official to advise a voter of the voter's right to cast a provisional ballot.
- 9) Requires a voter that votes a provisional ballot to execute, in the presence of the elections official, a written affirmation stating that he or she is eligible to vote and is registered in the county where he or she desires to vote.
- 10) Requires a provisional ballot envelope to be a different color than the color of a vote by mail (VBM) ballot envelope, as specified.
- 11) Requires an elections official to use the same signature comparison procedures used for VBM ballots to compare the signature on the provisional ballot with the signature on the voter's affidavit of registration, as specified. Provides that if the signatures do not match, the ballot is rejected. Requires an elections official, if the signatures match and the voter's registration is confirmed, to count the ballot.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

As of January 2018, the California Secretary of State indicated that nearly 25% of eligible voters are not registered to vote. Voters fail to meet voter registration deadlines due to various reasons. However, as of 2017, conditional voter

registration (also referred to as “election day voter registration”) is now a reality in California.

SB 1171 will allow provisional voters to register fully by completing the requested information on a provisional ballot envelope without having to additionally complete a duplicative affidavit of registration thereby saving time and money. This bill also updates the definition of “electors” to reflect changes in the deadline for voter registration.

- 2) **Provisional Ballots:** Provisional ballots generally are cast by a voter whose name is not on the official voter registration list at a polling place, or by a VBM voter who did not receive or possess his or her VBM ballot and would like to vote at a polling place. A provisional ballot is considered a regular ballot, but is placed in a special envelope prior to being put in the ballot box. Current law requires a provisional ballot to be counted after an elections official has confirmed that the voter is registered to vote in that county and did not previously vote in that election.
- 3) **Conditional Voter Registration and Previous Legislation:** In 2012, the Legislature approved and Governor signed AB 1436 (Feuer), Chapter 497, Statutes of 2012, which established conditional voter registration, also known as "same-day" registration, in California. Specifically, current law authorizes a person who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot at the elections official's permanent office during the 14 days immediately preceding an election or on election day. After receiving a conditional voter registration, current law requires an elections official to determine the registrant's eligibility to register to vote and validate the information, as specified. If the conditional voter registration is deemed effective, the registrant's provisional ballot is included in the official canvass. Conditional voter registration went into effect on January 1, 2017, after the SOS certified VoteCal, the state's statewide voter registration database.

Last session the Legislature approved and the Governor signed SB 439 (Allen), Chapter 734, Statutes of 2015, which permits county elections officials to offer conditional voter registration and provisional voting at satellite offices during the entire 14 days immediately preceding election day, among other provisions. Moreover, in 2016, the Legislature passed and the Governor signed SB 450, Chapter 832, Statutes of 2016, which enacted the California Voter's Choice Act (CVCA). The CVCA permits fourteen specified counties, starting this year, to conduct elections in which all voters are mailed ballots, and voters have the opportunity to vote on those ballots or to vote in person at a vote center for a period of 10 days leading up to election day. SB 450 requires vote centers to offer conditional voter registration, among other provisions.

In practice, a voter who conditionally registers to vote is required to fill out an affidavit of registration and subsequently fill out a provisional ballot. This bill streamlines this process and permits an elections official to use a provisional ballot envelope as an affidavit of registration if the provisional ballot envelope contains all the necessary information that would be required on a voter registration affidavit. Additionally, this bill revises and updates the definition of an "elector" to include individuals who register to vote during the conditional voter registration period.

- 4) **Arguments in Support:** In support, the American Civil Liberties Union of California Center for Advocacy and Policy writes:

Currently, voters are required to complete two separate forms with nearly identical information, which is unnecessarily time consuming and costly and can lead to confusion. SB 1171 eliminates this duplicative voter registration process and allows the use of provisional ballot envelopes for voter registration purposes. SB 1171 also updates the definition of "elector" by providing technical clean-up to reflect new voter registration deadlines that went into effect in last year.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Alex Padilla (sponsor)
American Civil Liberties Union of California Center for Advocacy and Policy
California Association of Clerks and Election Officials
League of Women Voters of California

Opposition

None on file.

Analysis Prepared by: Nichole Becker / E. & R. / (916) 319-2094