

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 2665 (Salas) – As Introduced February 15, 2018

SUBJECT: Absentee ballots: processing.

SUMMARY: Permits any jurisdiction having the necessary computer capability to start processing write-in votes on vote by mail (VBM) ballots on the 10th business day before an election for the purpose of tallying the votes.

EXISTING LAW:

- 1) Provides that any jurisdiction in which VBM ballots are cast may begin to process VBM ballot return envelopes beginning 29 days prior to the election.
- 2) Requires the elections official to compare the signature on the VBM identification envelope with the signature appearing on the voter's affidavit of registration, or the signature appearing on a form issued by an elections official that contains the voter's signature and is part of the voter's registration record. Provides that the elections official may use facsimiles of voters' signatures as specified. If upon comparison the elections official determines that the signatures compare, he or she will deposit the ballot, still in its identification envelope, into the ballot container in his or her office. If it is determined that the signatures do not compare, the identification envelope will remain unopened and the ballot will not be counted. The cause of the rejection will be written on the face of the identification envelope.
- 3) Provides that any jurisdiction having the necessary computer capability may begin to process VBM ballots on the 10th business day before the election and specifies that processing VBM ballots shall include opening VBM ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them.
- 4) Provides that except for a voter-nominated office at a general election, each voter is entitled to write on the ballot the name of any candidate for any public office, including that of President and Vice President of the United States, as specified.
- 5) Requires every person who desires to be a write-in candidate and have his or her name as written on the ballot of an election counted for a particular office to file a statement of write-in candidacy, as specified, and to collect the requisite number of signatures otherwise required on nomination papers for the office.
- 6) Prohibits a vote count from being accessed or released until 8 p.m. on the day of the election.
- 7) Requires all other jurisdictions to start to process VBM ballots at 5 p.m. on the day before the election.

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

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

Voting system technology has significantly evolved. In some of the newer voting systems, including the system used in Kern County, processing of voter mismarks no longer requires a pen-to-paper ballot duplication process. The process is still executed by teams, but the determinations are made to digital images and the audit trail is applied to the image itself. This process includes crediting the voters choice of write-in candidate to the image/audit trail during that processing, thus eliminating the need to out-sort those ballots and tally them manually during the canvass.

Election officials want to provide the most complete and accurate results possible on election night and to do so in the most efficient manner possible. AB 2665 would allow election officials to use the tools made available by existing technology to process VBM write-in votes and provide the most complete accurate tally possible on election night and eliminate the cost and time involved in secondary processing and the manual tally of write-in votes.

2) **Vote Tabulation and Adjudication:** Between the 29th day and the 11th day prior to the election, the elections official can begin to verify the signatures on the VBM ballot return envelopes against signatures on the voters' affidavits of registration, signatures appearing on forms issued by the elections official that are part of the voters' registration records, or facsimiles of the voters' signatures. If the elections official determines that the signature on the VBM return envelope is an accurate comparison to the signature on file in the voter's record, the elections official will place the unopened VBM ballot in a container in their office to be processed later. If the elections official determines that the signature on the VBM return envelope does not compare with the signature on file in the voter's record, the VBM ballot will remain unopened and a notation will be written across its face detailing the reason for it being rejected.

On the 10th day before the election, jurisdictions who have the necessary computer capability can begin preparing VBM ballots to become part of the semifinal official canvass by opening VBM ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them. Write-in votes must be manually processed. Newer tabulating machines make it possible to process VBM ballots that include write-in votes electronically. When a VBM ballot is run through the tabulator it records a screen shot and when that screenshot is interpreted by the tabulator to include a write-in vote, it is saved for a process called adjudication. During adjudication, a person will review the screen shot to determine the intent of the voter and match the write-in to a qualified name, reject the write-in as invalid, or accept it as-is.

3) **Arguments in Support:** In support of this bill, the California Association of Clerks and Election Officials writes:

AB 2665 will permit counties to count write-in votes in conjunction with vote by mail ballot processing. This change will allow counties to fully process vote by mail ballots with qualified write-in candidates, creating a fuller picture of how voters voted during the vote by mail period.

Under the current law vote by mail ballots can be processed starting 10 days prior to the election. Processing includes verifying the vote by mail signature, extracting the ballot from the envelope, and reviewing the ballot for rips, tears, erroneous marks, and other problems that may cause the ballot to not be tallied accurately. Ballots that cannot be tallied correctly may be duplicated during this period so on election night the results may contain these votes.

Also under current law, ballots that contain write-in votes must be segregated for a hand tally in the semi-official canvass which occurs during the 30-day period after Election Day. On election night incomplete vote results are posted because these write-in candidate tallies cannot be included, even if the county registrar had the time on or before Election Day to perform this function.

AB 2665 allows these write-in tallies to be processed in conjunction with the vote by mail ballots, meaning that ballots containing votes for qualified write-in candidates can be hand-tallied and credited to a write-in candidate at the time of processing rather than waiting until after the post-election canvass for the results.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Association of Clerks and Election Officials (Sponsor)
Kern County Board of Supervisors

Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094