

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 681 (Gonzalez) – As Amended March 26, 2019

**SUBJECT:** Presidential primary elections.

**SUMMARY:** Requires a county elections official, before the presidential primary election, to send multiple notifications to registered voters informing them of their political party preference and the ballot they are eligible to cast, as specified. Specifically, **this bill:**

- 1) Requires a county elections official, between the 90th and 30th day before a presidential primary election, to send three separate notices to each registered voter within the county containing all of the following:
  - a) The current political party preference of the voter;
  - b) Information on the type of ballot the voter will be able to cast at the presidential primary election;
  - c) A statement that a voter who has declined to disclose a political party preference may request the ballot of one of the political parties that authorizes a voter who has declined to disclose a political party preference to vote in a presidential primary election, and the name of each political party that authorizes a voter who has declined to disclose a political party preference to vote the party's ballot at the upcoming presidential primary election; and,
  - d) Instructions on how the voter can change the voter's political party preference.
- 2) Allows the notices described above to be sent by various methods, including by mail, by email, or, if the voter has provided written consent to receive text messages from the county elections official, by text message. Requires an elections official to send at least one of the three notices to a registered voter using a method different from that used to send the other notice or notices to the voter.

**EXISTING LAW:**

- 1) Permits a person to choose a political party preference when registering to vote. Voters who do not choose a political party preference are commonly referred to as "No Party Preference" (NPP) voters.
- 2) Permits a NPP voter to request the ballot of a political party at a partisan primary election if the political party, by party rule duly noticed to the Secretary of State (SOS), authorizes a NPP voter to vote in its primary election.
- 3) Requires the SOS, for a partisan primary election, to prepare, print, and provide to elections officials posters or other materials that contain information informing a NPP voter of their right to request a partisan ballot, as specified.

- 4) Requires a member of the precinct board, before providing a NPP voter with a nonpartisan ballot or before the voter enters the voting booth, to provide a uniform notification to the voter informing the voter that they may request a partisan ballot, as specified. Requires a county elections official to train the members of a precinct board regarding this duty.
- 5) Requires that a NPP voter be furnished only a nonpartisan ballot, unless they request a partisan ballot, as specified. Requires the nonpartisan ballot to contain only the names of candidates for nonpartisan offices, voter-nominated offices, and measures to be voted for at the primary election.
- 6) Requires the SOS to include in the state voter information guide and county elections official to include in the nonpartisan county voter information specified information explaining that a NPP voter may not vote in a political party's primary election unless the political party has authorized a NPP voter to vote in its primary election. Requires the SOS and county elections officials to post this information on their internet websites, as specified.
- 7) Requires a county elections official to send an email to the email address of a NPP voter notifying the voter that they may request a political party's ballot at the next ensuing partisan primary election. Requires a county elections official to provide the notice to a NPP voter by text message if the voter has provided written consent to receive text messages from the county elections official.
- 8) Requires a county elections official, with each nonpartisan VBM ballot that is sent to a NPP voter, to include a notice informing the voter that they may request a political party's ballot at the next ensuing partisan primary election.
- 9) Permits a NPP voter to request a partisan ballot by VBM application, by telephone, over the internet, by email or by facsimile transmission, as specified.

**FISCAL EFFECT:** Unknown. State-mandated local program; contains reimbursement direction.

**COMMENTS:**

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

California elections have seen two trends increasing over the past years— voters opting to receive their ballots in the mail, and an increase in those choosing to register as no party preference (NPP). According to the Secretary of State, 28.3 percent of registered voters in California are registered as NPP as of February 2019, and over 65 percent of ballots cast are by mail. Both trends have significant impacts for voters during presidential primary elections.

Currently, NPP voters are allowed to vote in a political party's partisan primary if the party has indicated by party rule, and noticed to the Secretary of State, that they will allow NPP voters. NPP voters who want to vote for presidential primary candidates then have to take an extra step of either reregistering with an updated political party preference, or of requesting a ballot from a participating political party. For mail ballot voters, this means sending in a postcard requesting a certain

ballot type well in advance of the election.

This complicated process was highlighted during the 2016 presidential primary, in which many of supporters of one of the Democratic presidential candidates were registered as NPP, and needed to specifically request the Democratic Party ballot in order to vote for him. During that contest, compared to the 2008 primary, there was an increase in of 35 percent in NPP registrations and an 88 percent increase in permanent absentee voters (those requesting a mail ballot).

If the voter fails to take the correct steps to vote in a partisan primary, they are presented with a ballot that does not have the presidential primary candidates on it. This may lead to individuals not being able to cast a vote for their preferred candidate, a high number of provisional ballots if those who weren't able to request their preferred mail ballot type in time go to the polls, and a negative voter experience.

Assembly Bill 681 would require county election officials to send registered voters three notices before a presidential primary election with relevant information about their party preference and ballot they are eligible to cast to reduce voter confusion and allow sufficient time for voters to update their information. These notices will give voters ample time to update their information and request a certain ballot if eligible, as well as educate voters on the process. By sending multiple notices via different methods, voters will also be more likely to actually receive the information.

- 2) **Presidential Primary Election Options:** Under California's presidential primary system, a voter who is registered with a political party receives a ballot for that party's presidential primary election. For example, voters who are registered with the Democratic, Republican, American Independent, Green, Libertarian, or Peace and Freedom Party receive the primary election ballot for their respective parties. At the same time, voters who declined to disclose a political party preference (also known as NPP voters) receive a nonpartisan ballot that does not list the candidates for president. Under current law, however, a NPP voter may request the ballot of any political party that has notified the SOS that it will allow those voters to participate in its presidential primary election. This is commonly referred to as a "crossover" ballot.

For example, in the 2016 statewide presidential primary election, the American Independent Party, Democratic Party, and Libertarian Party all indicated that they would allow NPP voters to participate in their presidential primary elections.

- 3) **Poll Worker Guidelines:** Serving as a poll worker is an important and challenging job as there are many rules and regulations that must be followed. Due to the diversity of the state's population, geography, voting systems and more, training methods and materials prepared by the elections officials vary by county. Consequently, the SOS provides poll worker training standards to help elections officials train their poll workers on how to best perform their duties.

According to the SOS's 2018 poll worker training standards, poll workers should have a thorough understanding of the rights and options of voters who are not registered with a

qualified political party, but are registered as NPP voters or are registered with nonqualified political parties. During a primary election that includes at least one partisan public office (e.g. United States President) on the ballot, precinct board members should be trained to clearly distinguish between ballots for qualified political parties and nonpartisan ballots. Additionally, the standards state that a precinct board member, at a partisan primary election, before providing a NPP voter with a nonpartisan ballot or before the voter enters the voting booth, as applicable, shall provide a uniform notification to the voter informing the voter that they may request a political party's ballot (a "crossover" ballot) and the name of each political party that has authorized a NPP voter to vote in its ballot for that election. The standards also point out that county elections officials should train poll workers how to properly record which political party's ballot was requested or whether a nonpartisan ballot was requested by each NPP voter.

- 4) **Voter Confusion and Previous Legislation:** The 2016 Presidential primary election significantly underscored the lack of uniform statewide procedures and timelines for how a NPP voter can request and receive a ballot to vote in the Presidential primary election. There were a significant number of media articles and complaints from voters across the state that reported they were not provided information on how to vote as an NPP voter and that poll workers were not knowledgeable about the process to obtain a crossover ballot.

Some counties were proactive in educating NPP voters about their option to obtain a crossover ballot and provided written notification informing NPP voters of their option to choose a crossover ballot. Other counties, however, strictly interpreted the law and only provided a NPP voter with ballot option information upon request.

In effort to address these issues, the Legislature passed and the Governor signed AB 837 (Low), Chapter 819, Statutes of 2017, which made significant changes to election procedures and processes for partisan primary elections to ensure all NPP voters are properly informed of their ballot options. Specifically, AB 837 established clear requirements for the SOS, county elections officials, and poll workers to notify and educate voters about their right to choose a crossover ballot, as specified. Additionally, AB 837 improved and increased notifications provided to NPP VBM voters and made significant changes to modernize and make election information more accessible to NPP voters.

- 5) **March Presidential Primary:** In 2017, the Legislature approved and the Governor signed SB 568 (Lara), Chapter 335, Statutes of 2017, which moved California's primary election from June to March, beginning with the 2020 election.
- 6) **Voter Statistics:** According to the Secretary of State's February 2019 Odd-Numbered Year Report of Registration, approximately 79% of eligible voters are registered. Of that, 43% are registered Democratic, approximately 23% are registered Republican, 28% are registered NPP, and 5% are registered with another party.

Additionally, for the 2018 June primary election, over 67% of voters were VBM ballot voters and for the 2018 November general election, over 65% of voters cast their ballot via a VBM ballot.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file.

**Opposition**

None on file.

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