Date of Hearing: May 1, 2019

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ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Marc Berman, Chair
AB 693 (Berman) – As Amended March 25, 2019

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SUBJECT: Conditional voter registration: voting.

SUMMARY: Allows the use of nonprovisional ballots for conditional voter registration (CVR, a.k.a. "same day" registration) if certain conditions are met. Specifically, **this bill** allows an elections official to issue a nonprovisional ballot to a person who is voting using CVR if the official does both of the following:

1) Uses the statewide voter registration database (known as VoteCal) to do all of the following before issuing the nonprovisional ballot:

   a) Verify that the registrant is deemed eligible to vote;

   b) Verify that the registrant has not voted in the state in that election;

   c) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections under the California Voter's Choice Act (CVCA), as specified; and,

   d) Update the voter's record to indicate that the voter has voted in that election.

2) If the registrant has been included on a roster for that election in that county, the official updates the roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

EXISTING STATE LAW:

1) Permits a voter who is otherwise qualified to register to vote to complete a CVR, as defined, and to cast a provisional ballot during the 14 days immediately preceding an election or on election day at the office of the elections official. Permits the county elections official to offer CVR at satellite offices of the county elections official.

2) Provides that a CVR shall be deemed effective if the county elections official is able to determine before or during the canvass period for that election that the registrant is eligible to register to vote and that the information provided by the registrant on the registrant affidavit matches information contained in a database maintained by the Department of Motor Vehicles (DMV) or the federal Social Security Administration (SSA). Provides that if the information provided by the registrant cannot be verified against either of these databases, but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number, as specified, and the CVR shall be deemed effective.

3) Provides that if a CVR is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

4) Permits counties, pursuant to the CVCA, to conduct elections in which every voter is mailed a ballot and vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places for the election, subject to certain conditions.

EXISTING FEDERAL LAW requires each state, pursuant to the federal Help America Vote Act of 2002 (HAVA), to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state. California's HAVA-compliant voter registration database is known as VoteCal.

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

COMMENTS:

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

> Conditional Voter Registration, also known as "same-day" registration, is an important safety net for Californians who miss the deadline to register to vote or update their registration before an election. Those who register conditionally are given a provisional ballot, which is counted after an elections official has confirmed the voter's eligibility. The VoteCal database, which was certified in 2016, provides county elections officials with the capability to access and update the database in real time. Therefore, AB 693 authorizes a county elections official to offer a non-provisional ballot to a conditionally registered voter, if the official is able to verify their eligibility through a real-time connection to the VoteCal database and certain conditions are met.

> Providing eligible conditionally registered voters the opportunity to vote in the same manner as other voters, rather than with a provisional envelope, will provide these voters with greater confidence that their ballots will be counted. The reduced steps in processing conditional registrants who meet the conditions will also reduce wait times on Election Day and reduce the number of outstanding ballots not included in election night reporting. AB 693 leverages technology and a real-time connection to [VoteCal] to improve the voter experience for those who register conditionally.

2) **Conditional Voter Registration and Previous Legislation**: AB 1436 (Feuer), Chapter 497, Statutes of 2012, permits CVR, under which a person is allowed to register to vote and vote at the office of the county elections official at any time, including on election day, if certain requirements are met. SB 439 (Allen), Chapter 734, Statutes of 2015, permits county elections officials to offer CVR at satellite offices of the elections official during the 14 days immediately preceding election day, among other provisions. CVR went into effect in 2017, and was available in statewide elections for the first time last year. According to information from the Secretary of State (SOS), 57,275 voters cast ballots using CVR at the November 2018 general election.

At the time that AB 1436 was approved, the VoteCal system had not yet been implemented, and California was using an older statewide voter registration database that was not fully compliant with HAVA. Notably, that database was not fully interactive and county

registration and voting history transactions were not updated in the database in real time. In light of that fact, the operative date of AB 1436 was delayed until after the VoteCal database was deployed. Now that VoteCal is fully operational, counties are able to determine in real time whether a voter is registered in any other county, or whether a voter has voted in any other county in the state for a particular election.

Under existing law, because CVR ballots are all provisional ballots, elections officials generally process CVR registrations after the election is over, during the official canvass period for the election. To process those CVR registrations and provisional ballots, the elections official uses the VoteCal system to (1) perform a verification of specified information from the registration against databases maintained by the DMV and the SSA, and (2) determine whether the voter is registered or voted in any other county in the state in the same election, among other tasks. Since VoteCal is a fully interactive database that is updated in real time, however, there theoretically is no reason why these tasks must occur after the election during the official canvass period. Instead, elections officials theoretically can use VoteCal at the time a voter uses CVR to verify that voter's registration and to update the person's vote history.

Accordingly, this bill allows a county elections official to offer a *nonprovisional* ballot to a voter who is using CVR if the elections official first conducts the same voter registration verification procedure using VoteCal that the elections official otherwise is required to conduct *after* the election for CVR voters who vote using a provisional ballot. That procedure includes a verification that the voter has not already voted in that county or anywhere else in the state in the same election. Additionally, the elections official would be required to update the voter's record in VoteCal to indicate that the voter has voted in the election so that elections officials would know not to issue that same voter another ballot in the same election. Finally, if a voter has already been included on a polling place or vote center roster for an election, the elections official would not be able to issue a nonprovisional ballot to that voter except in situations where the roster is updated to reflect the fact that the voter has already voted in that election. That update to the roster will ensure that elections officials know that the voter should not be issued another nonprovisional ballot for the same election.

3) **California Voter's Choice Act**: SB 450 (Allen), Chapter 832, Statutes of 2016, enacted the CVCA, which permits counties 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. Fourteen specified counties were permitted to conduct elections under this system in 2018, though only five counties (Madera, Napa, Nevada, Sacramento, and San Mateo) did so. All counties are permitted to conduct elections under the CVCA beginning in 2020, and at least 11 counties (El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, and Santa Clara) are expected to do so.

Counties that conduct elections pursuant to the CVCA are not required to establish polling places for elections, but instead must establish vote centers. Vote centers are polling locations at which any registered voter in a county can cast a nonprovisional ballot, regardless of the voter's precinct. In order to verify the registration of voters, determine the correct ballot type for each voter, and ensure that a voter has not already cast a ballot, vote centers must have a mechanism to verify voter registration information. In addition, vote

centers are required to offer CVR for voters in the jurisdiction. These requirements are met through the use of electronic poll books that communicate with county and state voter registration systems in real-time.

4) **Arguments in Support**: The sponsor of this bill, the California Association of Clerks and Election Officials, wrote in a letter of support to a prior version of this bill:

> Under the current law ballots that are cast by conditional voter registrants are reviewed and adjudicated during the canvass period along with the provisional ballots that are cast on Election Day. A large number of these conditional voter registrants are new voters to California or have not voted by mail in their previous county. These voters can have their registration and conditional ballot immediately adjudicated at the Elections Office, Vote Center, or satellite office, allowing it to be included in the election night results instead of having to wait until the canvass period. This results in a better voting experience for the voter and helps reduce the number of conditional voter registration ballots being reviewed postelection allowing counties to devote these resources to other areas of the canvass.

5) **Arguments in Opposition**: In opposition to this bill, Election Integrity Project California, Inc., writes:

> AB 693 would facilitate erroneous registrations and ensure that ineligible votes would be cast and counted.
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> When a registrant applies to vote, the affidavit must be verified not only for duplication but also for legitimacy of provided ID and domicile. AB 693 would provide for instant acceptance of an applicant based solely upon whether or not that applicant is reflected on VoteCal, California's statewide voter database.
>
> This is clearly insufficient verification of an applicant's eligibility to vote. The process put in place for voter registration cannot be safely short-cut or subverted without incalculable and irreparable damage to the integrity of California's elections….
>
> ALL qualified registrants deserve to cast a vote and have it counted. They also deserve to vote within a system that protects their vote from being diluted by hastily accepted votes that may not be legitimate. Last minute registrants must be subject to the same level of scrutiny as all others, and until all proper procedures can be followed, they must be allowed to cast ONLY a PROVISIONAL ballot.

6) **Related Legislation**: SB 72 (Umberg), which is pending in the Senate Appropriations Committee, requires that CVR be available at all polling places and at all satellite offices of the county elections official, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials (sponsor) (prior version)
California Teachers Association
League of Women Voters of California
Secretary of State Alex Padilla

Opposition

Election Integrity Project California, Inc.

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