

Date of Hearing: June 30, 2021

ASSEMBLY COMMITTEE ON ELECTIONS

Marc Berman, Chair

SB 504 (Becker) – As Amended June 16, 2021

SENATE VOTE: 39-0

SUBJECT: Elections: voter registration.

SUMMARY: Requires a county elections official to make conditional voter registration (CVR) available to military and overseas voters and voters with disabilities via a certified remote accessible vote by mail (RAVBM) system. Requires the Secretary of State (SOS) to provide county elections officials with identifying information for persons imprisoned for the conviction of a felony and persons on parole or otherwise released from imprisonment, as specified. Specifically, **this bill:**

- 1) Requires an elections official to make CVR and voting available to military and overseas voters and voters with disabilities through a certified RAVBM system.
- 2) Defines the following terms for the purpose of this bill:
 - a) “Conviction” does not include a juvenile adjudication pursuant to existing law
 - b) “Imprisoned” to mean currently serving a state or federal prison sentence pursuant to existing law.
 - c) “Parole” to mean a term of supervision by California Department of Corrections and Rehabilitation (CDCR) pursuant to existing law.
 - d) “Statewide voter database” to mean the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002.
- 3) Deletes provisions of law that require the clerk of the superior court of each county to periodically furnish the SOS and county elections official with certain information regarding persons who have been committed to state prison for a felony conviction, as specified, and instead requires CDCR to provide to the SOS, on a weekly basis and in a format prescribed by the SOS, certain identification information for all of the following persons:
 - a) Persons imprisoned for the conviction of a felony and under the jurisdiction of CDCR. Requires, to the extent available, identification information provided by CDCR regarding these persons to include the date on which each person’s term of imprisonment began.
 - b) Persons on parole or persons released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR. Requires, to the extent available, identification information provided by CDCR regarding these persons to include the dates on which each person’s parole began and on which the person was discharged from the jurisdiction of CDCR.

- 4) Requires CDCR to provide the SOS with the personal identification information, including all of the following, for the persons listed above:
 - a) All known first names.
 - b) All known last names.
 - c) All known middle names.
 - d) All known name suffixes.
 - e) Last known address.
 - f) Date of birth.
 - g) Last four digits of the person's social security number, if available.
 - h) Driver's license or state-issued identification number, if available.
- 5) Requires the SOS, upon receipt of the information described above, to do all the following:
 - a) Identify any registration record in the statewide voter database that contains personal identifying information that, for each of the unique identifiers described above, as available, matches information pertaining to a person imprisoned for the conviction of a felony and under the jurisdiction of CDCR or on parole, as specified above.
 - b) For any matched records described in subdivision (a), provide the information pertaining to a person imprisoned for the conviction of a felony and under the jurisdiction of CDCR or a person on parole or released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR, and the corresponding unique identifier or identifiers used in the statewide voter database to county elections officials within three days of receipt of the information from CDCR.
- 6) Requires the county elections official, upon receipt of information from the SOS, to do all of the following:
 - a) Cancel the affidavit of registration of any person imprisoned for the conviction of a felony and under the jurisdiction of CDCR whose registration information matches the unique identifier or identifiers used in the statewide voter database provided by the SOS to the county.
 - b) Using the form prepared by the SOS pursuant to the provisions of this bill, notify a person on parole or released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR, and whose last known address is within the county based on the unique identifier or identifiers used in the statewide voter database provided by the SOS to the county, that the person's voting rights are restored and advise the person that if the person is otherwise entitled to register to vote, the person may register to vote. Requires the county elections official to provide the person with information regarding the procedure for registering to vote.

- 7) Requires the SOS to prepare a form to be used by county elections officials to provide the notice that the person may register to vote.
- 8) Prohibits a county or county elections official from being liable for taking or failing to take the actions to cancel an affidavit of registration or notify a person of their restored right to vote when the county or county elections official have received erroneous information from the SOS or CDCR.
- 9) Makes technical and conforming changes

EXISTING LAW:

- 1) Permits a person who is a United States 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, to register to vote and to vote.
- 2) Requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned for the conviction of a felony.
- 3) Permits a person who is a United States citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 16 years of age, to pre-register to vote.
- 4) Requires the county elections official to cancel a person's affidavit of registration upon the proof that the person is presently imprisoned for the conviction of a felony.
- 5) Permits any voter, including a voter with a disability or a military or overseas voter, to apply for and receive a vote by mail (VBM) ballot from the voter's elections official.
- 6) Defines "remote accessible vote by mail system," to mean a mechanical, electromechanical, or electronic system and its software that is used for the sole purpose of marking an electronic VBM ballot for a voter with disabilities or a military or overseas voter who prints the paper cast vote record to be submitted to the elections official. Prohibits a RAVBM system from being connected to a voting system at any time.
- 7) Requires the SOS to certify or conditionally approve a RAVBM system, or part of a RAVBM system, as specified.
- 8) Requires a county elections official to permit a voter with a disability or a military or overseas voter to use a certified RAVBM system, as specified.
- 9) Required a county elections official to permit any voter to cast a ballot using a certified RAVBM system, regardless of whether the voter is a voter with disabilities or a military or overseas voter, for the statewide general election held on November 3, 2020.
- 10) Defines "conditional voter registration" to mean a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective after the elections official processes the affidavit, determines the registrant's eligibility to

register, and validates the registrant's information, as specified.

- 11) Provides that a CVR is deemed effective if the county elections official is able to determine before or during the canvass period of the election that the registrant is eligible to register to vote and that the information provided by the registrant on the affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration. Requires the registrant, if the information provided by the on the affidavit of registration cannot be verified, but the registrant is otherwise eligible to vote, to be issued a unique identification number, as specified, and the CVR shall be deemed effective.
- 12) Requires an elections official to provide CVR and voting at all permanent and satellite offices of the county elections official and all polling places in the county.
- 13) Defines "military or overseas voter" to mean an elector absent from the county in which the elector is otherwise eligible to vote who is any of the following:
 - a) A member of the active or reserve components of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; a Merchant Marine; a member of the United States Public Health Service Commissioned Corps; a member of the National Oceanic and Atmospheric Administration Commissioned Corps of the United States; or a member on activated status of the National Guard or state militia.
 - b) A citizen of the United States living outside of the territorial limits of the United States or the District of Columbia.
 - c) A spouse or dependent of a person described above.
- 14) Authorizes any county, pursuant to the California Voter's Choice Act (CVCA), to conduct elections in which every registered 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.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- The SOS indicates that it would incur first-year General Fund costs of \$278,000, and \$268,000 annually thereafter, to implement the provisions of the bill.
- The CDCR would have minor and absorbable costs.
- By requiring county elections officials to perform the bill's specified duties, this bill creates state-mandated local programs. To the extent the Commission on State Mandates determines the provisions of this bill impose a higher level of service, counties could claim reimbursement for those costs (General Fund). The amounts are unknown, but potentially significant.

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

SB 504 improves two critical election processes by 1) ensuring justice involved folks are granted the right to register to vote after serving their time with more accurate voter rolls, and 2) grants both UOCAVA/military and disabled voters to “Conditionally” or “Same Day” register just as you and I currently can.

2) **Efforts to Facilitate Voting by Overseas and Military Voters:** 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.

In addition to being compliant with all provisions in the MOVE Act, California law also makes other accommodations to facilitate voting by military voters and other California residents who are outside of the United States. Specifically, current law provides that an application for a VBM ballot by an overseas voter is deemed to be a request for voter registration (if the voter was not already registered to vote) and an application for permanent VBM voter status. In addition, California makes all overseas voters permanent VBM voters, thereby eliminating the need for overseas military voters and other overseas voters to request a VBM ballot for each election.

In 2012, the Legislature passed and Governor Brown signed AB 1805 (Huffman), Chapter 744, Statutes of 2012, which established new voting procedures for military and overseas voters, as defined, to comply with the UOCAVA and implement the policies of that act and the Uniform Military & Overseas Voter Act adopted by the National Conference of Commissioners on Uniform State Laws. Among other provisions, AB 1805 expanded the definition of military or overseas voters and expanded the use of the Federal Write-In Absentee Ballot by allowing use by military or overseas voters in non-federal elections to ensure continuity and uniformity across state lines.

AB 1929 (Gorell), Chapter 694, Statutes of 2012, established processes and procedures for the review and approval of ballot marking systems, as defined, for use in California elections. A ballot marking system speeds up the amount of time it takes for military or overseas voter to cast a ballot by allowing a military or overseas voter to electronically obtain a ballot specific to the precinct in which they reside and electronically mark their ballot. The information marked on the voter’s ballot is formatted onto a document that the voter may print out and mail or fax to their county elections official.

3) **Remote Accessible Vote by Mail Voting:** In order to expand the use of ballot marking systems to voters with disabilities and to better reflect the technology used to do so, AB 2252 (Ting), Chapter 75, Statutes of 2016, was signed into law by Governor Brown. AB 2252 deleted the term “ballot marking system,” and replaced and updated it with the term “RAVBM system.” Additionally, AB 2252 allowed a military or overseas voter or a voter with disabilities to electronically receive and mark their VBM ballot using a RAVBM

system, prohibited a RAVBM system from being connected to a voting system at any time, and revised, updated, and established processes and procedures for the review and approval of a RAVBM system, as specified.

While AB 2252 established the requirements for RAVBM systems and created procedures for the review and approval of such systems, it did not expressly require that elections officials make such a system available to voters in their jurisdiction. Subsequently, in 2018, the Legislature approved and Governor Brown signed AB 1013 (Low), Chapter 906, Statutes of 2018, which requires a county elections official to permit a voter with a disability, or a military or overseas voter, to cast their ballot using a certified RAVBM system. While AB 1013 did not apply to counties conducting elections pursuant to the CVCA, the CVCA separately requires counties to have a process to send or deliver a VBM ballot that voters with disabilities can read and mark privately and independently—a requirement that counties generally have met through the use of RAVBM systems.

Generally, RAVBM systems that are approved for use in California use electronic delivery to provide a voter with a ballot that the voter can mark using their own computer, including any assistive device that the voter uses with that computer. After marking the ballot, the voter must print and return the ballot by mail (existing law also permits military and overseas voters to return their ballot by facsimile transmission under certain circumstances); RAVBM systems that are approved for use in California are not permitted to transmit completed ballots electronically to the elections official.

Because RAVBM systems involve the electronic delivery of a blank VBM ballot from the elections official to the voter, these systems can significantly cut down on the time needed to get a ballot to a voter after that voter requests such a ballot.

- 4) **Conditional Voter Registration and Previous Legislation:** AB 1436 (Feuer), Chapter 497, Statutes of 2012, permits CVR, also known as “same day registration,” under which a person is allowed to register or re-register to vote and vote within 14 days of an election, including election day, if certain requirements are met. A voter’s ballot is processed and counted once the county elections office has completed the voter registration verification process. According to data from the SOS, 269,862 voters used the CVR process to vote in the November 2020 general election.

In counties that conduct elections pursuant to the CVCA, CVR is required to be available at every vote center. CVR went into effect in 2017, and was available in statewide elections for the first time in 2018. Last session, the Legislature approved and the Governor signed SB 72 (Umberg), Chapter 565, Statutes of 2019, which expanded CVR and required it to be made available at all polling places, as specified.

- 5) **Expansion of Conditional Voter Registration:** CVR is a safety net for Californians who miss the deadline to register to vote or update their voter registration information for an election. Eligible citizens who need to register or re-register to vote within 14 days of an election can complete this process to register and vote at their county elections office, polling place, or vote center. In other words, this process is accomplished in person. This bill allows two types of voters who may have difficulty taking advantage of a process that currently can only be accomplished in person—military and overseas voters and voters with disabilities—

to take advantage of the safety net provided by CVR through the use of RAVBM systems.

- 6) **California Disenfranchisement Laws:** Article II, Section 4 of the California Constitution states that "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned for the conviction of a felony." Elections Code Section 2101 is the statute that implements Article II, Section 4 of the California Constitution. Section 2101 states that "[a] person entitled to register to vote shall be a United States 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." Moreover, elections officials are required to cancel the voter registrations of individuals who are imprisoned for the conviction of a felony. However, a person who is on parole or probation for conviction of a felony is permitted to vote.
- 7) **Voting Rights Restoration for Persons on Parole:** In 2020, the Legislature approved ACA 6 (McCarty), Resolution Chapter 24, Statutes of 2020, which deleted provisions of the California Constitution that provides for the disqualification of electors while on parole for the conviction of a felony. ACA 6, which was Proposition 17 on the November 2020 statewide general election ballot, was approved by the voters with over 58% of the vote. Additionally, last session, AB 646 (McCarty), Chapter 320, Statutes of 2020, was signed into law and served as the implementing legislation for ACA 6. AB 646 permits a person who is on parole for the conviction of a felony to register to vote and to vote.
- 8) **Previous Legislation:** AB 787 (Gipson) of 2019, would have required a county or city and county that operates a jail facility to allow organizations to conduct in-person voter registration activities, as specified. AB 787 was held under submission in the Senate Appropriations Committee.
- 9) **Arguments in Support:** In a letter of support to a prior version of this bill, the sponsors of this bill, the California Association of Clerks and Election Officials, wrote:

Elections officials are responsible for maintaining voter rolls which includes cancelling a voter record if the person dies or becomes ineligible to vote due to a court order or a felony conviction. To update files, election officials rely on records that are provided by outside agencies, including [CDCR] for felony conviction records. The information that is currently provided by the CDCR to the counties can be incomplete and inaccurate, leaving the elections official to make educated guesses as to a match. This proposal creates a clear flow of data from the CDCR to elections officials through the Secretary of State's (SoS) VoteCal system, where VoteCal will determine a match and inform the counties when to cancel a record. The SoS will work with CDCR to get all necessary information needed to determine a match. Counties will also not be held responsible for inaccurate or incomplete data.

[UOCAVA] was enacted by Congress in 1986 to allow military and overseas civilians the right to vote in all federal, state, and local elections. When [CVR] was enacted to allow a safety net for voters who missed an upcoming election registration deadline an opportunity to register and vote under certain conditions, it provided only for an in-person process at the elections official's office. This was quickly expanded to the polling places and vote centers. However, because

CVR requires the voter to appear in person, it still cannot be used by those individuals who are overseas or in the military. SB 504 will treat individuals equally by allowing UOCAVA voters access to this important protection just like their domestic counterparts.

10) **Double Referral:** This bill has been double-referred to the Assembly Committee on Public Safety.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Association of Clerks and Election Officials (sponsor) (prior version)
American Civil Liberties Union California Action
California Public Defenders Association (prior version)
California State Association of Counties (prior version)
Election Integrity Project California, Inc. (if amended) (prior version)
League of Women Voters of California
Microsoft (prior version)

Opposition

None on file.

Analysis Prepared by: Nichole Becker / ELECTIONS / (916) 319-2094