

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON ELECTIONS

Isaac G. Bryan, Chair

AB 1004 (Ta) – As Amended April 10, 2023

SUBJECT: Initiative, referendum, and recall petitions: signatures: voter notification.

SUMMARY: Permits a voter whose signature on a state, county, city, or district initiative, referendum, or recall petition is invalidated the opportunity to verify their signature, as specified. Specifically, **this bill:**

- 1) Requires an elections official who, upon conducting the verification of signatures pursuant to existing law for a state, county, city, or district initiative, referendum, or recall petition, determines that a signature possesses multiple, significant, and obvious differing characteristics when compared to all signatures in the voter's registration record, to subject the signature to additional procedures that require a signature to be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record. Requires the signature, if the official determines that the signatures do not compare, to not be counted.
- 2) Requires an elections official, on or before the next business day after a determination that a voter's signature does not compare, to send by first-class mail a notice to the voter of the opportunity to verify the voter's signature by the end of the 30-day period for the elections official to examine and verify signatures pursuant to existing law. Requires the notice to include a return envelope, with postage paid, for the voter to return a signature verification statement.
- 3) Permits an elections official to send additional written notices to a voter and to notify the voter in person, by telephone or email, or by other means of the opportunity to verify the voter's signature. Allows an elections official to use any information in a county's election management system, or otherwise in the election official's possession, for the purpose of notifying the voter of the opportunity to verify the voter's signature. Requires an elections official, if it is impracticable under the circumstances for the elections official to send the notice on or before the next business day, including in the event of technological failure, to send the notice as soon as practicable.
- 4) Requires the notice and instructions to be in substantially the following form:

“READ THESE INSTRUCTIONS CAREFULLY. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR PETITION SIGNATURE NOT TO COUNT.

1. We have determined that the signature you provided on a recent initiative or referendum or recall petition does not compare with the signature(s) on file in your voter record. In order to ensure that signature will be counted, the signature verification statement must be completed and returned as soon as possible.

2. The signature verification statement must be received by the elections official of the county where you are registered to vote no later than (Deadline).
 3. You must sign your name where specified on the signature verification statement (Voter's Signature).
 4. Place the signature verification statement into the postage-paid return envelope if it is included with these instructions. If a return envelope is not included with these instructions, use your own mailing envelope addressed to your local elections official. Mail, deliver, or have the completed statement delivered to the elections official. If you mail your completed statement using your own envelope, be sure there is sufficient postage and that the address of the elections official is correct.
 5. If you do not wish to send the signature verification statement by mail or have it delivered, you may submit your completed statement by email or facsimile transmission to your local elections official."
- 5) Requires the notice and instructions to be translated in all languages required in that county pursuant to the federal Voting Rights Act of 1965.
 - 6) Prohibits an elections official from rejecting a signature identified if each of the following conditions is satisfied:
 - a) The voter delivers, in person, by mail, by fax, or by email, a signature verification statement signed by the voter and the elections official receives the statement no later than the end of the 30-day period for the elections official to examine and verify signatures.
 - b) Upon receipt of the signature verification statement, the elections official shall compare the signature on the statement with the signature on file in the voter's record.
 - i) If upon conducting the comparison of signatures the elections official determines that the signatures compare, the elections official shall count the signature.
 - ii) If, under the standards and procedures above, a determination is made that the signatures do not compare, the signature shall not be counted.
 - 7) Requires the signature verification statement to be in substantially the following form and may be included on the same page as the notice and instructions specified above:

“SIGNATURE VERIFICATION STATEMENT

I, _____, am a registered voter of _____ County, State of California. I declare under penalty of perjury that I signed a petition regarding _____ (enter subject of initiative or referendum or recall measure here). I am a registered voter of the electoral jurisdiction that would be subject to this measure. I understand that if I sign my name to a petition knowing at the time of signing that I am not qualified to sign it, I may be convicted of a misdemeanor, and if I sign a fictitious name or the name of another to a recall petition, that I may be convicted of a felony punishable by imprisonment for two,

three, or four years. I understand that my failure to sign this statement means that my signature will not be counted.

Voter's Signature

Address"

- 8) Requires an elections official to include the petition signature verification statement and instructions on the elections official's internet website and to provide the elections official's mailing address, email address, and facsimile transmission number on the internet web page containing the statement and instructions.
- 9) Requires an elections official, if they determine that the signatures compare, to use the signature in the signature verification statement, even if returned untimely, to update the voter's signature for future elections.
- 10) Makes technical and conforming changes.

EXISTING LAW:

- 1) Provides that only persons who are qualified registered voters at the time of signing a petition are entitled to sign the petition. Provides that a person can only sign a petition that is being circulated in their county of registration. Permits a petition circulator, if they are a registered voter, to sign the petition the person is circulating. (Elections Code §§100(a), 9020(b), 9021(a))
- 2) Requires each signer to personally affix all of the following on the petition: the signer's signature, printed name, residence address (or physical description of the location if there is no street address), and the name of the incorporated city or unincorporated community. (Elections Code §100(b), 9020(a))
- 3) Provides that a person is guilty of a misdemeanor who knowingly signs their own name more than once to any initiative, referendum, or recall petition, or signs their name to a petition knowing at the time that they are not qualified to sign it. (Elections Code §18612)
- 4) Requires an election official, within 30 days, to determine the number of qualified voters who have signed a state or local petition, as specified. (Elections Code §§9030, 9031, 9114, 9115, 11224, 11225)
- 5) Permits an elections official, in determining from the records of registration what number of qualified voters have signed the petition, to use any facsimiles of voters' signatures provided that the method of preparing and displaying the facsimiles complies with law. Prohibits a signature from being invalidated because of a variation of the signature caused by the substitution of initials for the first or middle name, or both, of the person signing the petition. (Elections Code §§9030(d), 9115(a))

- 6) Requires an elections official, 30 days after a statewide recall has been initiated and every 30 days thereafter, to report the number of valid signatures to the Secretary of State (SOS), as specified. (Elections Code §11104(a))
- 7) Requires signatures on statewide recall petition to be verified in the same manner set forth in existing law for state initiative petitions. (Elections Code §§11104(b), 11106)
- 8) Prohibits a statewide, county, city, and district initiative, referendum, and recall petition, and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions, from being deemed to be public records and provides that such records shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. Permits the Attorney General, the SOS, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney to examine the material upon approval of the appropriate superior court. Provides that if the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency. (Government Code §6253.5)
- 9) Requires a county elections official, upon receiving a completed vote by mail (VBM) ballot, to compare the signature on the VBM ballot identification envelope with either of the following to determine if the signatures compare:
 - a) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter; or,
 - b) 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. (Elections Code §3019(a)(1))
- 10) Requires an elections official who determines that a voter's signature on a VBM ballot identification envelope possesses multiple, significant, and obvious differing characteristics when compared to all signatures in that voter's registration record to subject the signature to additional verification procedures. Provides for the signature to be rejected if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record. Requires the elections official to provide notice to every voter with a signature that was rejected of the opportunity to verify the voter's signature, as specified, and to have that ballot counted if the voter verifies that signature. (Elections Code §3019(c))
- 11) Requires an elections official to provide notice to all voters with a missing signature or a signature that does not compare with the voter's signature on file of the opportunity to verify or submit a signature no later than 5 p.m. two days prior to the certification of the election, as specified. (Elections Code §§3019(d), 3019(e))

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

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

AB 1004 ensures Californians are able to fairly participate in the ballot proposition and recall petition process. Current election law results in valid petition signatures being disqualified with no notice to voters or opportunity to verify their signature, preventing Californians from being able to fairly participate in the democratic process. By providing signers notice of disqualified signatures and the opportunity to verify their signature, AB 1004 conforms signature integrity for recall and ballot proposition petitions to the rest of the elections code and allows Californians the opportunity to fairly participate in their state's government.

2) **Signature Cure Process and Previous Legislation:** In an effort to reduce the number of rejected VBM ballots, the Legislature has taken a number of steps to modify the signature verification process for those ballots. In 2015, the Legislature passed and Governor Brown signed AB 477 (Mullin), Chapter 726, Statutes of 2015, which allows a voter who failed to sign their VBM ballot identification envelope to complete, sign, and return by mail or facsimile an unsigned ballot statement up to eight days after the election, as specified, in order to have their ballot counted. AB 840 (Quirk), Chapter 820, Statutes of 2017, authorized a voter to submit their completed unsigned ballot statement to the local elections official by email.

SB 759 (McGuire), Chapter 446, Statutes of 2018, created a cure process for a voter whose signature on their VBM ballot identification envelope does not match the signature on file in the voter's registration record, as specified. SB 523 (McGuire), Chapter 568, Statutes of 2019, required counties to notify a voter whose signature was missing on a VBM identification envelope, and aligned the processes for handling unsigned VBM ballot envelopes with the processes for handling VBM ballot envelopes with signatures that do not match the signatures on file in the voter's registration record.

Additionally, last session SB 503 (Becker), Chapter 319, Statutes of 2021 was signed into law to provide clear and uniform statewide signature verification standards to ensure that voters' signatures are evaluated consistently across all counties. SB 503 required various provisions of the SOS's signature verification emergency regulations to be codified into state statute. Specifically, SB 503 requires an elections official, upon receiving a VBM ballot and comparing the voter's signature on the identification envelope with signatures in the voter's registration record, to apply certain presumptions and provides for a signature to be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record, as specified. Additionally, SB 503 required the SOS, when promulgating regulations pertaining to signature comparison, to consult with elections experts, voter access and advocacy stakeholders, and elections officials, among other provisions.

This bill establishes a signature verification process that allows a voter whose signature on a state, county, city, or district initiative, referendum, or recall petition is invalidated by an elections official the opportunity to verify their signature. According to the author's office,

this process is intended to mirror the cure process in current law which requires an elections official to contact a VBM voter if their VBM ballot identification envelope contains a signature mismatch, to allow the voter the opportunity to submit a signature verification statement to fix their signature.

- 3) **Invalid Signatures:** According to recent studies, the most common reason why a VBM ballot is not counted is due to a non-matching signature between the VBM ballot identification envelope and the voter's registration record. During the November 2020 general election, 58% of VBM ballots that were rejected were due to a mismatched signature, 17% were rejected for missing the VBM ballot deadline (either arriving after the deadline or being postmarked after election day), and 17% were rejected for a missing signature on the VBM ballot identification envelope.

The reasons for why a signature is rejected on a petition are vastly different than reasons for why a signature on a VBM ballot is rejected. Petition signatures are usually found invalid because the person is not registered to vote, an address mismatch and the voter's registration records do not match the address on the petition, a duplicate signature and the voter has signed the petition more than once, a mismatch signature, or the signer does not live in the county. The vast majority of rejected petition signatures are due to non-registrations, address mismatches, and duplicate signers. Mismatch signatures make up a small percentage of rejected petition signatures.

- 4) **Timeline Concerns:** For most petitions, current law requires an elections official to examine the submitted petition and determine whether the petition has the requisite number of signatures within 30 days from the date the petitions are filed, as specified. This bill adds another step to this time sensitive process and requires a county elections official to mail a notice to all voters whose petition signature does not compare with the voter's signature on file and requires the voter to return the signature verification statement by the end of the 30-day period for an elections official to examine and verify signatures. Depending on when a petition signature is found invalid during the 30 day examination period will impact whether there is sufficient time for the elections official to notify the voter and for the voter to return their signature verification statement.

- 5) **Arguments in Support:** In support of this bill, the California Chamber of Commerce writes:

There is a discrepancy in the State's law as voters can verify signature mismatches on ballots and election officials are required to notify voters when their vote-by-mail ballot is disqualified. However, voters cannot verify disqualified signatures on recall or ballot proposition petitions, nor are they notified that their signature had been disqualified. Ballot initiatives and recall elections are just as fundamental to California's voting process as vote-by-mail ballots are. AB 1004 will close this loophole and conform signature integrity for recall and ballot proposition petitions to the rest of the elections code.

- 6) **Related Legislation:** AB 1037 (Berman), permits a voter who has a missing signature or a mismatched signature on their VBM identification envelope to return a completed signature verification statement or unsigned identification envelope statement by electronic means, in addition to those permitted under existing law, if such means are made available by the elections official, as specified. AB 1037 is also being heard in this committee today.

REGISTERED SUPPORT / OPPOSITION:

Support

California Chamber of Commerce

Opposition

None on file.

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