

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 1619 (Cervantes) – As Amended March 22, 2022

SUBJECT: Elections: voter registration and signature comparison.

SUMMARY: Requires voter registration applications to include a statement that a person's signature on an identification envelope for the return of a vote by mail (VBM) ballot will be compared against signatures in the voter's registration record, which includes the signature from the voter registration application. Specifically, **this bill:**

- 1) Requires a paper voter registration affidavit to contain, near the signature line of the affiant, a statement that the county elections official will compare the affiant's signature appearing on an identification envelope for the return of a VBM ballot cast in a future election with the signatures appearing in the voter's registration record, including the signature appearing on the affidavit of registration.
- 2) Requires the electronic voter registration affidavit that is available on the website of the Secretary of State (SOS) to contain, before or at the time the applicant assents to the SOS obtaining an electronic copy of the signature from the applicant's driver's license or state identification card from the Department of Motor Vehicles (DMV), a statement that the county elections official will compare the affiant's signature appearing on an identification envelope for the return of a VBM ballot cast in a future election with the signatures appearing in the voter's registration record, including the signature appearing on the applicant's driver's license or state identification card.
- 3) Makes technical and conforming changes.

EXISTING LAW:

- 1) Prohibits a person from being registered to vote except by affidavit of registration, except as specified. Requires the affiant to certify the content of the affidavit of registration as to its truth and correctness with the signature of the affiant's name and the date of signing.
- 2) Requires a person who registers to vote electronically on the SOS's website to affirmatively assent to the use of the person's signature from the person's driver's license or state identification card, and requires the SOS to obtain an electronic copy of the signature from the person's driver's license or state identification card directly from the DMV.
- 3) Requires an elections official to mail a ballot to every active registered voter for each election in which the voter is eligible to vote, as specified. Requires this mailing to include all supplies necessary for the use and return of the ballot, including an identification envelope with prepaid postage for the return of the VBM ballot. Requires the VBM ballot identification envelope to contain all of the following, among other items:
 - a) The signature of the voter.

- b) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which the voter is voting and is the person whose name appears on the envelope.
 - c) A warning that the voter must sign the envelope in the voter's own handwriting in order for the ballot to be counted.
- 4) Requires a county elections official, upon receiving a completed 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.
- 5) Requires the elections official, if the official determines that the signature on a VBM ballot identification envelope compares with a signature that is part of the voter's registration record, as described above, to deposit the ballot, still in the identification envelope, in a ballot container in the official's office, and establishes a process for that ballot to be counted.
- 6) 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.

FISCAL EFFECT: Unknown

COMMENTS:

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

After the enactment of Assembly Bill 37 in 2021, California has become a permanent vote-by-mail state. As a result, the Legislature must do everything in its power to reduce the number of mail ballots that are legally cast but rejected due to mismatched signatures. Unfortunately, the statewide trend in ballot rejection continues to persist with an average of 1.7 percent over the past ten years. A study conducted by the California Voter Foundation found that in the 2018 General Election, one of the top three reasons election officials rejected vote-by-mail ballots was because of mismatched signatures. Young and newly registered voters are the largest subgroup who have their vote-by-mail ballots rejected for this reason...AB 1619 would help address the high rejection rates for mismatched signatures by providing a reminder to individuals who are registering to vote that the signature they provide on their voter registration form, whether in

electronic or paper form, will be used to verify their signature on the envelopes for any vote-by-mail ballots that they might cast in future elections.

- 2) **Vote by Mail Ballot Use in California and Previous Legislation:** In 2001, the Legislature approved and Governor Davis signed AB 1520 (Shelley), Chapter 922, Statutes of 2001, which, among other provisions, authorized any voter to become a permanent VBM voter. Since that time, California voters have increasingly used VBM ballots to vote in elections. At the 2000 statewide general election (the last statewide election held before AB 1520 went into effect), 24.5% of Californians who voted did so using a VBM ballot. By contrast, since 2012, a majority of ballots cast in every California statewide election were VBM ballots.

Subsequent changes to California’s election laws have further contributed to an increasing use of VBM ballots in elections. SB 450 (Allen), Chapter 832, Statutes of 2016, also known as the California Voter’s Choice Act (CVCA), permits counties to opt-in to conducting elections in which every voter receives a VBM 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 elections, subject to certain conditions. Five counties (Madera, Napa, Nevada, Sacramento, and San Mateo) conducted elections under this system in 2018, and 15 counties (Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, Madera, Mariposa, Napa, Nevada, Orange, Sacramento, San Mateo, Santa Clara, and Tuolumne) did so in 2020. More recently, California has taken steps to ensure that every voter—including a voter who resides in a county that is not participating in the CVCA—receives a ballot in the mail for each election in which the voter is eligible to participate. That policy was first enacted as an accommodation to facilitate voting in 2020 due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally. Notably, AB 860 (Berman), Chapter 4, Statutes of 2020, required county elections officials to mail a ballot to every active registered voter for the November 3, 2020 statewide general election, among other provisions. SB 29 (Umberg), Chapter 3, Statutes of 2021, continued that policy for elections conducted in 2021, and AB 37 (Berman), Chapter 312, Statutes of 2021, made that policy permanent for future elections.

As a result of these policy changes, the overwhelming majority of California voters in statewide elections now vote using a VBM ballot. In all, 72.1% of ballots cast in California’s 2020 statewide primary election were VBM ballots, as were 86.7% of ballots cast in the 2020 statewide general election, and 91.0% of ballots cast in the 2021 statewide recall election.

- 3) **Signature Comparison and VBM Ballots:** While votes cast on VBM ballots are not necessarily returned to the elections official by mail (many such ballots are returned to a ballot drop-off location, a polling place, a vote center, or an elections official’s office), completed VBM ballots generally must nonetheless be sealed in a completed ballot identification envelope before being returned to the elections official. Upon receiving a completed VBM ballot and before that ballot can be counted, the elections official compares the signature on the identification envelope against the signatures in the voter’s registration record as a way of verifying that the ballot was cast by the voter for whom it was issued.

If the signature on a voter’s VBM ballot identification envelope does not compare to the signatures in that voter’s registration record (i.e., there is a “mismatched signature”), or if the VBM ballot identification envelope is not signed (i.e., there is a “missing signature”), then the elections official must contact the voter pursuant to a specified process to give the voter

the opportunity to verify that the voter cast that ballot. If the voter does not complete that verification process, then the VBM ballot is ineligible to be counted; in that case, the elections official does not open the VBM ballot identification envelope or process the ballot in that envelope. Historically, the three most common reasons why VBM ballots are unable to be counted are for mismatched signatures, missing signatures, or missing the VBM ballot return deadline.

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 to verify a VBM ballot identification envelope that is missing a signature by completing and signing an unsigned ballot statement, as specified, in order to have their ballot counted. In 2017, the Legislature approved and Governor Brown signed AB 840 (Quirk), Chapter 820, Statutes of 2017, which authorized a voter who did not sign their VBM identification envelope to submit their completed unsigned ballot statement to the local elections official by email.

In 2018, SB 759 (McGuire), Chapter 446, Statutes of 2018, created a verification process for a voter with a mismatched signature on their VBM ballot identification envelope. 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 addressing unsigned VBM ballot envelopes with the processes for addressing VBM ballot envelopes with mismatched signatures.

Last year, the Legislature approved and Governor Newsom signed SB 503 (Becker), Chapter 319, Statutes of 2021, which further standardized the process for an elections official to compare the signature on a VBM ballot identification envelope with the signature in the voter's registration record, and for contacting a voter who had a missing or mismatched signature on the voter's VBM ballot identification envelope.

Other legislative efforts have sought to reduce the number of VBM ballots that are rejected due to delays in mail delivery. SB 29 (Correa), Chapter 618, Statutes of 2014, allowed VBM ballots to be counted if they were cast by election day and received by the elections official by mail no later than three days after the election. Prior to the enactment of SB 29, VBM ballots in California could be counted only if they were received by the elections official by election day. SB 29 was introduced in response to the fact that an increasing number of VBM ballots that were returned to elections officials were arriving too late to be counted. Last year, AB 37 (Berman), Chapter 312, Statutes of 2021, extended the deadline by which a VBM ballot that is voted on or before election day must be received by the county elections official in order to be counted from the 3rd day after the election to the 7th day after the election, among other provisions. That provision of AB 37 was included in the bill due in part to concerns that changes in delivery standards by the United States Postal Service could slow the delivery of voters' completed VBM ballots.

According to the SOS, approximately 99.4% of VBM ballots cast in the November 2020 general election were counted, which is the lowest VBM ballot rejection rate since at least 2008, the first year for which reasonably comprehensive statistics are available. This was a significant improvement from the March 2020 primary election when 98.6% of VBM ballots cast were counted.

Despite this low VBM rejection rate, the most common reason why completed VBM ballots were not counted was due to a non-matching signature between the VBM ballot identification envelope and the voter's registration record. In all, 58% of VBM ballots that were rejected at the November 2020 election were rejected for 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.

- 4) **California Voter Foundation (CVF) Report and Recommendation:** In September 2020, the CVF issued a report entitled "Improving California's Vote-by-Mail Process by Reducing Ballot Rejection: A Three-County Study." That study examined VBM ballot rejection rates in Sacramento, San Mateo, and Santa Clara counties in the November 2018 statewide general election and made various findings and recommendations for reducing the number of rejected ballots. Some of those recommendations have already been adopted, including implementing statewide regulations that create uniformity in counties' signature verification processes, requiring that more VBM ballot drop-off locations be available, and requiring uniform reporting of the number of VBM ballots rejected and the reasons for rejection.

One of the recommendations from the CVF report that has not yet been implemented is that the state should "[i]mprove California's paper and online voter registration form by letting applicants know that their signature on the form will be used to verify their ballot envelope signature when they cast a [VBM] ballot." This bill would implement that recommendation.

- 5) **Technical Amendments:** Committee staff recommends the following technical amendments to this bill:

On page 2, line 12 of the bill, strike out "election's" and insert "elections".

On page 4, line 7 of the bill, strike out "election's" and insert "elections".

- 6) **Related Legislation:** AB 2608 (Berman), which is also being heard in this committee today, repeals various provisions of the Elections Code related to VBM ballot applications and makes various conforming changes to reflect the fact that AB 37 (Berman), Chapter 312, Statutes of 2021, requires that every active registered voter be mailed a ballot for every election in which the voter is eligible to vote.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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