

Date of Hearing: April 19, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 1688 (Sanchez) – As Amended March 16, 2023

SUBJECT: Voter registration: cancellation: deceased persons.

SUMMARY: Requires the Secretary of State (SOS) to adopt regulations to facilitate the availability of death statistics from the federal Social Security Administration (SSA) for use in canceling the voter registrations of deceased persons.

EXISTING LAW:

- 1) Permits a person who is a United States (US) citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election to register to vote in any local, state, or federal election. (California Constitution, Article II, §§2, 4)
- 2) Requires the SOS to adopt regulations to facilitate the availability of death statistics from the State Department of Health Services. Requires the data to be used by the SOS or county elections officials in canceling the affidavit of registration of deceased persons. (Elections Code §2206)
- 3) Requires the State Registrar of Vital Statistics, at the time that it sends notifications pursuant to existing law to the local registrar of births and deaths of the deaths of all residents of the county, to send a copy of the notifications to the county elections official (2 CCR §20075)
- 4) Requires the county elections official to cancel a voter's registration in the following cases:
 - a) At the signed, written request of the person registered.
 - b) When the mental incompetency of the person registered is legally established pursuant to existing law.
 - c) Upon proof that the person is presently imprisoned for conviction of a felony.
 - d) Upon the production of a certified copy of a judgment directing the cancellation to be made.
 - e) Upon the death of the person registered.
 - f) Upon notification as part of a preelection residency confirmation procedure that the person has moved, but only after a specified notification is sent to the voter and only if the voter subsequently fails to vote or update their voter registration during the period between the time that notification is mailed and two federal general elections after the date of that mailing, as specified.
 - g) Upon official notification that the voter is registered to vote in another state.

- h) Upon proof that the person is otherwise ineligible to vote. (Elections Code §2201(a))
- 5) Permits the SOS to cancel a voter's registration in the following cases:
- a) When the mental incompetency of the person registered is legally established pursuant to existing law.
 - b) Upon proof that the person is presently imprisoned for the conviction of a felony.
 - c) Upon the death of the person registered. (Elections Code §2201(b))

EXISTING FEDERAL LAW:

- 1) Requires each state, pursuant to the National Voter Registration Act (NVRA), to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of death of the registrant, or a change in the residence of the registrant, as specified. (52 U.S.C. §20507)
- 2) 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. Requires each state to perform list maintenance to the computerized list on a regular basis and coordinate the computerized list with State agency records on felony status and State agency records on death. (52 U.S.C. §21083)

FISCAL EFFECT: Unknown

COMMENTS:

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

Election experts agree that maintenance of voter rolls is crucial to preserving integrity and security in our elections. I introduced AB 1688 to provide our state's election officials with more tools to ensure that our voter registration lists are updated and properly maintained. This will help elections run smoother, save taxpayer money, and reduce the likelihood of fraud.

- 2) **Statewide Voter Registration Database:** On October 29, 2002, President George W. Bush signed HAVA. Enacted partially in response to the 2000 Presidential election, HAVA was designed to improve the administration of federal elections. Among other provisions, HAVA requires every state to implement a computerized statewide voter registration list maintained at the state level. This statewide voter registration list serves as the official list of eligible voters for any federal election held within the state.

In September 2016, the SOS certified California's statewide voter registration database, also known as VoteCal. VoteCal connects the SOS and all 58 counties' offices to provide a single, official statewide database of voter registration information, and provides a publically available website which allows a voter to register online, check their voter registration status,

find their polling place, opt-out of being mailed a state voter information guide, and check if their vote by mail or provisional ballot was counted by their county elections official and, if not, the reason why it was not counted. County elections officials use VoteCal to check for duplicate registrations, move a voter's record from one county to another when the voter moves, and check registration records to ensure voters have not been convicted of a crime that would preclude them from voting, among other uses.

- 3) **Voter File Maintenance:** A variety of methods are used to ensure voter registration rolls are accurate and up-to-date with the goal of maintaining an accurate list to prevent ineligible people from voting, prevent anyone from voting twice, and to reduce inaccuracies and speed up the voter check-in process at polling places. States vary on how this is accomplished, but most generally have processes in place for removing duplicate records, deceased voters, felons, and people who have moved. These checks can be conducted with data from federal agencies, state agencies, and other states. In California, federal agencies used to verify voter information include the SSA, the US Postal Service, and National Change of Address files. On the state level, voter registration data is cross-checked with information from the Department of Vital Statistics, Department of Motor Vehicles, Department of Corrections and Rehabilitation, and the Department of Public Health. On the local level, current law requires county elections officials to conduct a pre-election residency confirmation procedure by the 90th day before each statewide primary election, as specified. With specific regard to deceased voters, county elections officials receive death data from their local county public health departments, and also use other tools which may include checking obituaries listed in the local newspapers, notifications from family members, and returned mail that is marked "Deceased."

This bill additionally requires the SOS to adopt regulations to facilitate the availability of death records from the SSA, also referred to as the Death Master File or the Death Index. The Death Master File is not a dataset that California currently uses when verifying voter information to identify voters who have died. According to the author, providing the SOS with an additional tool to better evaluate which registrants passed away will help the state more efficiently cross-reference other state and local databases and ultimately ensure better maintenance of its voter rolls. However, it is unclear whether this bill requires the SOS to do more other than to develop regulations to obtain death records from the SSA. The bill does not explicitly require the SOS to use the data for voter file maintenance. Moreover, a few counties may already purchase third party data that includes SSA death data.

- 4) **Other States:** As referenced above, HAVA requires states to coordinate voter registration databases with the state agency responsible for recording deaths, most commonly a bureau of vital statistics or health department. According to the National Conference of State Legislatures (NCSL) states may use additional sources of information beyond official vital statistics to identify deaths and remove voter registrations, including the SSA data. According to NCSL, the following 10 states use SSA death records for voter file verification: Florida, Indiana, Kansas, Maryland, Minnesota, Oklahoma, Tennessee, Texas, Utah and Washington.
- 5) **New Notification and Previous Legislation:** Last year Governor Newsom signed AB 2841 (Low), Chapter 807, Statutes of 2022, which added a new voter registration notification and requires a county elections official, between 15 and 30 days before canceling a person's registration for the reasons of mental incompetency, imprisonment for a conviction of a

felony, death, or a change in residence, to send a forwardable notice by first class mail to the person. The notification informs the voter that their voter registration is scheduled to be canceled and suggests the voter notify the registrar of voter's office within 15 days from the date of the notice if this cancellation is an error. This new notification requirement will become operative January 2024.

- 6) **Arguments in Support:** In support of this bill, the California Association of Clerks and Election Officials (CACEO) writes:

Existing law requires the Secretary of State to adopt regulations to facilitate the availability of death statistics from the State Department of Health Services for use by the Secretary of State and county elections officials to cancel affidavits of registration of deceased persons.

This bill would also require the Secretary of State to adopt regulations to facilitate the availability of death statistics from the federal Social Security Administration for the same purpose.

CACEO greatly appreciates Assemblymember Sanchez's desire to ensure that election officials have access to the information that is required to accurately maintain voter registration records.

- 7) **Related Legislation:** AB 1206 (Pellerin) requires the SOS to apply for membership with the Electronic Registration Information Center (ERIC). Among other information, ERIC uses SSA death information to identify registered voters in member states that may be deceased, and provides that information about potentially deceased registered voters to the states. AB 1206 passed out of this committee on a 7-0 vote and is pending in the Assembly Privacy and Consumer Protection Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Clerks and Election Officials

Opposition

None on file.

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