Date of Hearing: April 13, 2016

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING
Shirley Weber, Chair
AB 2824 (Thurmond) – As Amended April 6, 2016

SUBJECT: Elections: precinct reports.

SUMMARY: Requires a county elections official, with the technical capacity to do so, to post semiofficial election information on the county's Internet Website in both downloadable spreadsheet and Election Markup Language (EML) formats, as specified. Specifically, **this bill**:

1) Requires a county with the technical capacity to do so to post the following information on its Internet Website:

   a) A statement of the results showing all the following:

      i) The total number of ballots cast;

      ii) The number of votes cast at each precinct for each candidate and for and against each measure;

      iii) The number of votes cast for each candidate and for and against each measure; and,

      iv) The number of votes cast in each city, Assembly district, congressional district, senatorial district, State Board of Equalization district, and supervisorial district located in whole or in part in the county, for each candidate for the offices of presidential elector and all statewide offices, depending on the offices to be filled, and on each statewide ballot proposition.

   b) Precinct data for absentee ballots, provisional ballots, spoiled ballots, and any other data readily available on the computer system.

2) Requires a county to provide the information listed above in both downloadable spreadsheet and EML formats. Permits the spreadsheet to include a comma-separated values file or a tab-separated values file that is compatible with a spreadsheet software application widely used at the time of the posting. Requires a county, if it does not have the capability to provide this information in the formats described, to provide the information in whichever format it is able.

3) Requires a county, following the commencement of the semifinal official canvass, to post the information described above at the end of election night, daily through the first Friday after election day, and thereafter, weekly on Fridays until the results are certified in accordance with existing law.

4) Requires a county, if modification to its voting system would allow the county to comply with the posting requirements stated above, to propose a modification of its voting system to the Secretary of State (SOS) for approval pursuant to existing law.

5) Decreases the length of time that a county elections official must post and maintain the certified statement of the election results on its Internet Website following the election from at least 10 years to at least 22 months.

EXISTING LAW:

1) Requires an elections official, for every election, to conduct a semifinal official canvass by tabulating vote by mail (VBM) and precinct ballots and compiling the results. Requires the semifinal official canvass to commence immediately upon the close of the polls and continue without adjournment until all precincts are accounted for.

2) Requires an elections official to transmit the semifinal official results to the SOS, in a manner prescribed by the SOS, for the following:

   a) All candidates voted for the following offices:

      i) Statewide office;

      ii) Member of the Assembly;

      iii) Member of the Senate;

      iv) Member of the United States House of Representatives;

      v) Member of the State Board of Equalization;

      vi) Justice of the Court of Appeal; and,

      vii) Judge of the superior court;

   b) The persons voted for at the presidential primary;

   c) The vote given for persons for electors of President and Vice President of the United States;

   d) All statewide measures; and,

   e) The total number of ballots cast.

3) Requires the elections official to transmit the results to the SOS at intervals no greater than two hours, following the commencement of the semifinal official canvass.

4) Requires the elections official who conducts an election to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election or, in the case of school district, community college district, county board of education, or special district elections conducted on the first Tuesday after the first Monday in November of odd-numbered years, no later than the last Monday before the last Friday of that month.

5) Requires an elections official to post the certified statement of the results of an election on his or her Internet Website in a downloadable spreadsheet format that may include, but is not limited to, a comma-separated values file or a tab-separated values file that is compatible with a spreadsheet software application that is widely used at the time of the posting. Provides that this requirement applies only to those counties with a computer system capable of compliance without undergoing any modification.

6) Requires the certified statement of the election results to be posted and maintained on the elections official's Internet Website for a period of at least 10 years following the election.

7) Requires the certified statement of the results to show all of the following:

   a) The total number of ballots cast;

   b) The number of votes cast at each precinct for each candidate and for and against each measure;

   c) The total number of votes cast for each candidate and for and against each measure; and,

   d) The number of votes cast in each city, Assembly district, congressional district, senatorial district, State Board of Equalization district, and supervisorial district located in whole or in part in the county, for each candidate for the offices of presidential elector and all statewide offices, depending on the offices to be filled, and on each statewide ballot proposition.

8) Requires an elections official to send the SOS within 31 days of the election, in an electronic format, a complete copy of the results of all of the following:

   a) All candidates voted for the following offices:

      i) Statewide office;

      ii) Member of the Assembly;

      iii) Member of the Senate;

      iv) Member of the United States House of Representatives;

      v) Member of the State Board of Equalization;

      vi) Justice of the Court of Appeal; and,

      vii) Judge of the superior court;

   b) The persons voted for at the presidential primary;

   c) The vote given for persons for electors of President and Vice President of the United States;

d) All statewide measures; and,

e) The total number of ballots cast.

9) Provides that if a voting system or a part of a voting system has been certified or conditionally approved by the SOS, it shall not be changed or modified until the SOS has been notified in writing and has determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and recertification, or conditional approval pursuant to existing law.

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

COMMENTS:

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

   California leads the country in transparent, secure, and auditable elections. As an election protection advocate and activist, I am proud to have done my part to make this so. AB 2824 is the next small step in this process – to provide information on a timely basis that is needed by campaign managers and initiative proponents starting on election night in a format that they can use to verify reported results and analyze the detail in various ways that will satisfy them, preventing uncertainty and possibly avoiding the need to interrupt Registrars with inquiries, requests for recounts and audits.

2) **Electronic Results**: Existing law requires a county elections official to conduct a semifinal official canvass by tabulating VBM and precinct ballots, compiling the results, and transmitting the semiofficial results to the SOS in a manner prescribed by the SOS. Specifically, a county elections official is required to provide the SOS with results for elections for state and federal office, and for statewide ballot measures every two hours following the commencement of the semiofficial canvass.

   Additionally, current law requires county elections officials to prepare a final certified statement of the results of the election and submit it to the governing body within 30 days of the election, as specified. Similar to semiofficial elections results, county elections officials are also required to provide the SOS with final elections results in an electronic format for elections for state and federal office, and for statewide ballot measures.

   In 2013, the Legislature passed and the Governor signed AB 813 (Melendez), Chapter 112, Statutes of 2013, which additionally required elections officials to post certified election results on the county's Internet Website in a downloadable spreadsheet format. Specifically, AB 813 requires county elections officials who use a computer system that has the capability of producing the election results in a downloadable spreadsheet format without requiring modification of the computer system, to post the certified statement of the election results on the county Internet Website in a downloadable spreadsheet format that may include, but not be limited to, a comma-separated values file or a tab-separated values file that is compatible with a spreadsheet software application that is widely used at the time of the posting.

This bill expands these requirements and requires county elections officials to post election results earlier beginning on election night. Specifically, this bill requires county elections officials that have the technical capacity to do so, to post semiofficial election results on its Internet Website in both downloadable spreadsheet and EML formats. This bill permits the downloadable spreadsheet to include a comma-separated values file or a tab-separated values file that is compatible with a spreadsheet software application widely used at the time of the posting. However, if a county does not have the capability to provide information in the formats described, this bill requires county elections officials to provide the information in whichever format it is able.

While many counties already have the capability to post certified elections results in this manner, the committee is unsure if the same can be said for posting semiofficial election results in the same manner. Moreover, this bill requires the semiofficial results to be posted in substantially similar format that certified election results are posted, except that this bill also requires precinct data for VBM ballots, provisional ballots, spoiled ballots, and any other data readily available on the computer system to also be posted in a downloadable spreadsheet format, as specified. Requiring semiofficial elections results to be posted down to the precinct level may be challenging for county elections officials to comply with, especially the frequency at which this bill requires this information to be posted. This bill requires this information to be posted beginning at the end of election night, daily through the first Friday after election day, and thereafter, weekly on Fridays until the results are certified in accordance with existing law. It is the understanding of committee staff that depending on the voting system that a county uses, a county may have to shut down its system in order to generate the required spreadsheets and it can take approximately 60 to 90 minutes for the spreadsheets to be created. Some counties, however, may use an outside vendor to create these downloadable spreadsheets and as a result, do not need to shut down their system down and may continue to process ballots while these reports are being generated. This, however, could potentially be problematic. Because it is very common for ballot totals to change as ballots are being processed, reconciled and so forth, these reports will simply be a snapshot in time and will not necessarily reflect current vote totals. Consequently, posting the semiofficial election results may cause confusion rather than bring transparency to election results.

Moreover, this bill requires a county, if modification to its voting system would allow the county to comply with the posting requirements stated above, to propose a modification of its voting system to the SOS for approval pursuant to existing law. Because the bill states that these posting requirements are only required to be implemented for a county that has the capability to do so, it is unclear when this requirement would be implemented. If it is the author's intent to require a county elections official to make modifications to its voting system when a county upgrades or purchases a new system, the committee may wish to consider amending the bill to clarify the author's intent.

3) **Duration of Posting**: As mentioned above, current law requires an elections official whose computer system has the capability without undergoing any modification, to post the certified statement of the results of an election on his or her Internet Web site, in a downloadable spreadsheet format, as specified. Additionally, existing law requires the certified statement of the election results to be posted and maintained on the elections official's Internet Web site for a period of at least 10 years following the election. This bill significantly decreases the length of time an elections official is required to keep the certified election results posted on

his or her Web site from at least 10 years to at least 22 months. According to advocates of the bill, decreasing the length of time will make it consistent with federal law which requires ballots to be stored for 22 months after a federal election. Because committee staff has not received any feedback to suggest that the length of time is burdensome, the author and the committee may wish to consider whether changing the length of time that certified elections results are posted and maintained on a county's Website is prudent. Moreover, decreasing the length of time at which certified elections results are posted online seems contrary to the author's goal of transparency and accessibility to elections results. Lowering the length of time to 22 months does not even encompass the full length of an election cycle.

4) **Suggested Technical Amendment**: The committee staff recommends the following technical amendment:

   On page 3, in line 1, strike out "absentee ballots" and insert "vote by mail ballots."

5) **Previous Legislation**: AB 813 (Melendez), Chapter 112, Statutes of 2013, requires elections officials to post election results on the Internet in a downloadable spreadsheet format, as specified.

   SB 29 (Correa), Chapter 618, Statutes of 2014, extended the deadline for elections officials to prepare a certified statement of the results of an election from 28 days after the election to 30 days after the election, among other provisions.

REGISTERED SUPPORT / OPPOSITION:

Support

Voting Rights Task Force
Wellstone Democratic Renewal Club

Opposition

None on file.

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