

Date of Hearing: March 15, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 626 (Pellerin) – As Introduced February 9, 2023

AS PROPOSED TO BE AMENDED

SUBJECT: Voting: returning vote by mail ballots in person.

SUMMARY: Allows a voter to return their vote by mail (VBM) ballot to an in-person voting location, without placing the ballot into a ballot identification envelope, if specified conditions are met. Specifically, **this bill:**

- 1) Permits a voter to vote their VBM ballot, without the identification envelope, in person at the polling place designated for the voter's home precinct or at a vote center, as specified.
- 2) Requires, if the precinct board or vote center election board has real-time access to the county election official's election management system, the status of a voter who seeks to vote their VBM ballot in person, without the identification envelope, to be changed in the election management system from a VBM voter to an in-person voter.
- 3) Requires, after the voter's status has been changed, the voter to provide their name and address and sign the roster for the voting location.
- 4) Requires a ballot cast pursuant to this bill to be processed and counted in the same manner as a non-provisional ballot cast in person at the polling place or vote center.

EXISTING LAW:

- 1) Requires an elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate. Requires the elections official to begin mailing VBM ballots no later than 29 days before the election, as specified. (Elections Code §3000.5)
- 2) Requires the elections official, when mailing a VBM ballot to a voter, 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. (Elections Code §3010) Requires the identification envelope to contain all of the following information:
 - a) 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.
 - b) The signature of the voter.
 - c) The residence address of the voter as shown on the affidavit of registration.
 - d) The date of signing.

- e) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.
 - f) A warning plainly stamped or printed on it that voting twice constitutes a crime.
 - g) A warning plainly stamped or printed on it that the voter must sign the envelope in the voter's own handwriting in order for the ballot to be counted.
 - h) A statement that the voter has neither voted nor intends to vote a ballot from any other jurisdiction for the same election.
 - i) The name and signature of the person authorized by the voter to return the VBM ballot, if any. (Elections Code §3011)
- 3) Requires an elections official, upon receiving a VBM ballot, to compare the signature on the 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 that is part of the voter's registration record. (Elections Code §3019(a))
- 4) Requires a voter to be issued a non-provisional ballot to vote at the voter's designated polling place, a vote center, or the office of the elections official, if either of the following conditions are met:
- a) The voter surrenders their VBM ballot to the inspector of the precinct board, a member of the vote center election board, or the elections official; or,
 - b) The voter is unable to surrender their VBM ballot, but the precinct board, vote center election board, or elections official does both of the following:
 - i) Verifies that the voter has not returned their VBM ballot; and,
 - ii) Notates the voter's record to ensure that their VBM ballot is not cast or tabulated after the person votes at the polls. (Elections Code §3015)
- Requires a voter who appears to vote at the voter's designated polling place, a vote center, or the office of the elections official, to be issued a provisional ballot if the conditions detailed above are not met. (Elections Code §3016)
- 5) Requires an elections official who determines that the signature on a VBM ballot identification envelope compares to a signature in the voter's registration record to deposit the ballot, still in the identification envelope, in a ballot container in the official's office.

(Elections Code §3019(b))

- 6) Requires a person who desires to vote in person at an in-person voting location to provide the person's name and address. Requires the person, upon the precinct officers finding the name in the roster, to sign the person's name in the space provided or, if the voter is unable to sign, to have the voter's name signed by another person on the roster provided for that purpose.
(Elections Code §14216)

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

COMMENTS:

- 1) **Author's Amendments:** After the committee's deadline for pre-committee author's amendments, the author proposed amendments to this bill based on feedback from stakeholders to expand this bill such that it also applies to voters who appear in person at the polling place designated for their home precinct. This analysis reflects those proposed author's amendments.
- 2) **Purpose of the Bill:** According to the author:

Currently, elections officials cannot possibly process and prepare for the Election Night semi-official vote count on time due to thousands of mailed ballots turned in via mail or drop box in the final days before an election. In past elections, elections officials will count more ballots after election night than on election night due to the fact that so many voters wait until the final days before an election to turn in their voted ballot. If voters are allowed to walk their mailed ballot in and have it counted as an in-person ballot on Election Night, this will result in faster processing of their ballot because elections officials will not have to go through the many manual steps required to process a returned mailed ballot, such as signature comparison, opening and extracting the ballot, and ballot inspection.

AB 626 will significantly speed up ballot processing after an election for voters who walk their voted mail ballot to a voting location to be processed instead of returning the ballot by mail or drop box during the few days before an election. By allowing voters to take their voted mailed ballot into a voting location, have their voter record updated to reflect that they are voting in person, and then have their ballot counted as an in-person ballot, the ballot can be processed more quickly with fewer demands on elections workers' time.

- 3) **Use of VBM Ballots in California Elections:** In 2001, the Legislature approved and Governor Davis signed AB 1520 (Shelley), Chapter 922, Statutes of 2001, which authorized any voter to become a permanent VBM voter, among other provisions. 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 was enacted), 24.5% of Californians who voted in that election did so using a VBM ballot. By contrast, since 2012, a majority of ballots cast in every California statewide election have been VBM

ballots.

Subsequent changes to California’s election laws have further contributed to an increasing use of VBM ballots in elections. As an accommodation to facilitate voting at the 2020 general election during the height of the COVID-19 pandemic, the Legislature approved and Governor Newsom signed AB 860 (Berman), Chapter 4, Statutes of 2020, which required county elections officials to mail a ballot to every active registered voter for the November 3, 2020 statewide general election, among other provisions. The policy of requiring county elections officials to mail a ballot to all active registered voters ultimately was made permanent through the passage of AB 37 (Berman), Chapter 312, Statutes of 2021. At every statewide election held since California began mailing a ballot to every active registered voter, more than 86% of Californians who voted did so using a VBM ballot. The following chart details the historical use of VBM ballots by California voters in statewide elections since 2000:

Election	Total Ballots Cast	VBM Ballots Cast	% VBM Ballots
2000 Primary Election	7,883,385	1,842,891	23.4%
2000 General Election	11,142,843	2,732,947	24.5%
2002 Primary Election	5,286,204	1,378,413	26.1%
2002 General Election	7,738,821	2,096,094	27.1%
2003 Statewide Recall Election	9,413,377	2,775,785	29.5%
2004 Primary Election	6,684,421	2,293,321	34.3%
2004 General Election	12,589,683	4,105,179	32.6%
2005 Statewide Special Election	7,968,757	3,183,614	40.0%
2006 Primary Election	5,269,142	2,471,358	46.9%
2006 General Election	8,899,059	3,696,940	41.5%
2008 Presidential Primary Election	9,068,415	3,777,094	41.7%
2008 Primary Election	4,550,227	2,671,230	58.7%
2008 General Election	13,743,177	5,722,465	41.6%
2009 Statewide Special Election	4,871,945	3,029,736	62.2%
2010 Primary Election	5,654,993	3,278,224	58.0%
2010 General Election	10,300,392	4,989,852	48.4%
2012 Primary Election	5,328,296	3,471,570	65.2%
2012 General Election	13,202,158	6,753,688	51.2%
2014 Primary Election	4,461,346	3,096,104	69.4%
2014 General Election	7,513,972	4,547,705	60.5%
2016 Primary Election	8,548,301	5,036,262	58.9%
2016 General Election	14,610,509	8,443,594	57.8%
2018 Primary Election	7,141,987	4,834,975	67.7%
2018 General Election	12,712,542	8,302,488	65.3%
2020 Primary Election	9,687,076	6,982,750	72.1%
2020 General Election	17,785,151	15,423,301	86.7%
2021 Statewide Recall Election	12,892,578	11,733,429	91.0%
2022 Primary Election	7,285,230	6,647,212	91.2%
2022 General Election	11,146,610	9,755,188	87.5%

A voter's ballot is classified as a VBM ballot if it was issued to the voter as a VBM ballot, even if the ballot is not ultimately returned by mail. According to information from the SOS, in recent statewide elections, more than a third of VBM ballots have been returned by voters through methods other than by mail, including VBM ballots that are returned to ballot drop boxes, ballot drop-off locations, polling places, and vote centers. For the November 2020 presidential general election, more than 60% of the VBM ballots cast were returned by a method other than by mail.

Since the November 2020 presidential general election, between 15-20% of VBM ballots cast at regularly-scheduled statewide elections have been dropped off at vote centers or other ballot drop-off locations, a category that includes polling places and the offices of county elections officials. Many of those ballots would be able to be voted without an identification envelope under the provisions of this bill.

- 4) **Ballot Processing and Counting:** Even though state law requires county elections officials to mail a ballot to all active registered voters, in-person voting locations (e.g., polling places, vote centers, elections official's offices) remain available for California voters. Non-provisional ballots (a.k.a., "live," "regular," or "polling place" ballots) that are cast at in-person voting locations generally are placed into a ballot box without first being put into an identification envelope, and can be counted by the elections official without needing to undergo further verification. As a result, most ballots cast at in-person voting locations generally can be included in the election results that are released by elections officials in the hours after the polls close.

By contrast, under existing law, a VBM voter generally will place their completed VBM ballot into an identification envelope before returning that ballot to the elections official. Before a VBM ballot identification envelope can be opened and the ballot counted, the elections official must first verify certain information on the envelope (including a comparison of the voter's signature on the identification envelope to the signature(s) in the voter's registration record). State law allows elections officials to begin that verification process as soon as they receive a completed VBM ballot from a voter. A large number of VBM ballots are returned on or close to election day, however, and elections officials generally are unable to complete the required verification for those ballots until after election day. As a result, a substantial majority of ballots that are counted in the days and weeks after an election are VBM ballots for which the required verification could not be completed before election day.

While existing law allows a voter to *surrender* their VBM ballot at an in-person voting location and be issued a non-provisional ballot that can be placed into a ballot box without an identification envelope, that option requires the voter to mark the newly issued ballot at the voting location. A voter who already marked their VBM ballot at home may not want to take the time to make their selections again on a newly issued ballot.

By allowing VBM ballots to be voted without the use of a ballot identification envelope in specified circumstances, this bill should increase the number of ballots that are able to be counted as part of the election night results.

5) **Suggested Amendments:** In order to ensure that this bill can be implemented effectively and in a manner that is consistent with existing state laws, including those related to ballot reconciliation, committee staff recommends amendments to this bill to do all of the following:

(1) Require the precinct board or vote center election board to verify that a person has not already returned a VBM ballot for that election before permitting that person to vote their VBM ballot without the identification envelope.

(2) Require county elections officials to establish procedures to ensure that a person who casts a VBM ballot without the identification envelope pursuant to this bill does not submit more than one VBM ballot without the identification envelope.

(3) Clarify that the ability of a person to vote their VBM ballot without the identification envelope is contingent upon the requirements of this bill being met.

The following is a draft of these proposed committee amendments, including the proposed author's amendments that are detailed above:

3016.5. (a) ~~In an election conducted using vote centers, a~~ A voter may vote their vote by mail ballot, without the identification envelope, in person at the polling place designated for the voter's home precinct or at a vote center pursuant to this section. established pursuant to Section 4005, if all of the following conditions are met:

~~(b) (1) If the~~ **The precinct board or** vote center election board has real-time access to the county ~~election~~ **elections** official's election management system, **and does both of the following:**

(A) Verifies that the voter has not returned a vote by mail ballot for that election.

~~**(B) the status of a voter who seeks to vote their vote by mail ballot in person, without the identification envelope, shall be changed**~~ **Changes the status of the voter** in the election management system from a vote by mail voter to an in person voter.

(2) After the voter's status has been changed pursuant to **subparagraph (B) of** paragraph (1), the voter ~~shall provide~~ **provides** their name, address, and signature pursuant to Section ~~14216 and shall be permitted to vote their vote by mail ballot without the identification envelope.~~ **14216.**

(3) The county elections official has established procedures to ensure that a voter who casts a ballot pursuant to this subdivision does not submit more than one vote by mail ballot without the identification envelope, and the precinct board or vote center election board complies with those procedures.

(3) **(b)** A ballot cast pursuant to ~~paragraph (2)~~ **subdivision (a)** shall be processed and counted in the same manner as a nonprovisional ballot cast in person at the **polling place or** vote center.

- 6) **Arguments in Support:** In support of this bill, the League of Women Voters of California writes:

It is of critical importance that California, having moved to universal mailing of ballots, also retain convenient in-person options where voters can access assistance and vote with confidence. Furthermore, in-person ballots are processed and counted faster than mailed ballots, and counting more ballots on election night will increase the public's confidence in elections, expedite the canvass, and decrease the workload of elections staff.

- 7) **Related Legislation:** AB 398 (Pellerin), which is also being heard in this committee today, allows an elections official to provide a replacement VBM ballot to a voter without the need for the voter to provide a specified statement under penalty of perjury.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Voters
Disability Rights California
Election Integrity Project California
League of Women Voters of California

Opposition

None on file.

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