

Date of Hearing: August 29, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

AB 2080 (Gordon) – As Amended: August 14, 2012

CONCURRENCE IN SENATE AMENDMENTS

ASSEMBLY: (April 26, 2012) SENATE: 22-14 (August 22, 2012)
(vote not relevant)

SUBJECT: Vote by mail ballots.

SUMMARY: Deletes a requirement that a voter must be ill or disabled in order to have a family member or a person in the same household return a vote by mail (VBM) ballot for that voter.

The Senate amendments delete the Assembly version of the bill, and instead:

- 1) Eliminate a requirement that a voter must be ill or disabled in order for that voter to be able to designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or other person residing in the same household as the voter, to return the voter's VBM ballot to the elections official from whom it came or to the precinct board at a polling place within the jurisdiction.
- 2) Add double-jointing language to avoid chaptering problems with AB 2054 (Fong).

EXISTING LAW permits a voter to designate his or her spouse, child, parent, grandparent, grandchild, sibling, or a person residing in the same household as the voter to return the voter's VBM ballot if the voter is unable to return the ballot due to illness or disability.

AS PASSED BY THE ASSEMBLY, this bill provided that if 500 or more signatures were submitted to an elections official on a petition for the recall of a state officer, the elections official could verify, using a random sampling technique, either 3% of the signatures submitted or 500 signatures, whichever is greater, instead of verifying the lesser of the two amounts.

FISCAL EFFECT: Unknown. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

Vote-by-mail voting used to be limited to voters who were either traveling on Election Day or home bound. Voting by mail has become a significant tool of convenience for busy voters and a means to potentially increase participation. In recognition, California law has evolved to facilitate rather than place barriers in the way of voting by mail.

The public has responded and the percentage of voters availing themselves of vote-by-mail has steadily grown. Two decades ago, in the November 1990 election, 18.38% of voters used vote-by-mail. A decade ago, in the November 2000 primary election, 24.53% of voters availed themselves of this option. In the November 2010 election, the most recent election for which there is data, 48.44% of voters used vote-by-mail. In the June 2012 primary, 65% of voters used vote-by-mail ballots.

AB 2080 would update the law regarding the circumstances when a person other than the voter, can drop off a voter's vote-by-mail ballot. Under existing law, a voter's vote-by-mail ballot may be returned to the local elections official or any polling place within the jurisdiction on or before Election Day. If the voter is unable to return the ballot due to illness or other physical disability, the voter can designate their spouse, child, parent, grandparent, grandchild, brother, sister, or person residing in the same household to return the vote by mail ballot. Paid or volunteer workers for any committee, controlled committee, political party, or candidate's campaign committee are specifically prohibited from returning a vote-by-mail ballot.

In an effort to make participation easier without eliminating existing safeguards, this bill simply deletes the requirement that a voter be ill or disabled in order to have his or her ballot returned by someone else.

The current prohibition in current law on campaign workers picking up or dropping off vote-by-mail ballots would remain in place. Effectively, this bill would remove barriers to participation while maintaining existing safeguards against voter fraud.

- 2) Restrictions on Return of Vote by Mail Ballots: Existing law limits the people who may pick up or drop off a VBM ballot for a voter, generally restricting such activities to immediate family members or people living in the same household as the voter. Additionally, existing law requires a voter to return his or her own VBM ballot, unless the voter is ill or physically disabled. No such restriction applies when a person is picking-up a VBM ballot for an immediate family member or other voter living in the same household as that person.

In light of these restrictions, existing law allows a person to pick-up a ballot for his or her spouse regardless of whether that spouse is ill or disabled, but prohibits that person from returning his or her spouse's completed VBM ballot unless the spouse is ill or physically disabled. Elections officials indicate that this requirement is unenforceable, since they have no way of verifying whether a voter is ill or disabled.

- 3) Arguments in Support: The sponsor of this bill, Secretary of State Debra Bowen, writes in support:

Since 1995, voting by mail has become a popular and convenient method of voting. In the November 2010 General Election, nearly 50% of the 10.3 million people who voted did so by mail, and in some special elections, the number has been as high as 84%.

Existing law allows a voter who, because of illness or disability, is unable to return their VBM ballot on Election Day to authorize a relative or person residing in the same household to return their ballot. AB 2080 removes the requirement that a voter be ill or disabled to have a relative or household member return a VBM ballot to elections officials on Election Day. This change makes this section of the law consistent with EC 3009(b), which allows a relative or person residing in the same household to pick up a voters' ballot without any requirement that the voter be ill or disabled.

- 4) Related and Previous Legislation: AB 2054 (Fong), allows a voter to return his or her VBM ballot to any polling place within the state, instead of being limited to polling places within the jurisdiction of the elections official who issued the ballot. AB 2054 is pending for concurrence in Senate amendments on the Assembly Floor.

AB 867 (Swanson) of this legislative session would have deleted the requirement that a voter must be ill or disabled in order to designate another person to return that voter's VBM ballot, among other provisions. AB 867 was approved by this committee on a 5-2 vote and by the Assembly on a 48-28 vote, but subsequently was amended to address a different issue

AB 1271 (Krekorian) of 2009, AB 1096 (Umberg) of 2005, and SB 462 (Karnette) of 2001, all proposed to delete the requirement that a voter must be ill or disabled in order to designate another person to return that voter's VBM ballot, among other provisions. AB 1271 and AB 1096 vetoed by Governor Schwarzenegger, who argued that the bills could lead to abuse of the system. SB 462 was vetoed by Governor Davis, who stated that it was "important to maintain the standard under current law that a person be ill or disabled to request that someone else submit" a voter's VBM ballot.

- 5) Prior Version: The prior version of this bill, which was approved by the Assembly, dealt with the verification of signatures on petitions for the recall of elected state officers. Those provisions were removed from this bill in the Senate, and the current contents were added. As a result, this bill has been re-referred to this committee pursuant to Assembly Rule 77.2.

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (sponsor)
California Association of Clerks and Election Officials
California State Association of Counties

Opposition

None on file.

Analysis Prepared by: Ethan Jones / E. & R. / (916) 319-2094