

Date of Hearing: June 11, 2013

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 589 (Hill) – As Amended: June 4, 2013

SENATE VOTE: 25-10

SUBJECT: Vote by mail ballots: sample ballots.

SUMMARY: Makes changes to vote by mail (VBM) procedures and sample ballot mailings. Specifically, this bill:

- 1) Requires the county elections official to establish a free access system that allows a VBM voter to learn whether his or her VBM ballot was counted and, if not, the reason why the ballot was not counted. Requires the elections official to make the free access system available to a VBM voter upon the completion of the official canvass and for 30 days thereafter.
- 2) Permits a county elections official to elect not to mail a sample ballot to a voter if all of the following are satisfied:
 - a) The voter is one of the following:
 - i) A permanent VBM voter pursuant to existing law;
 - ii) A voter in an all-mail ballot election conducted pursuant to existing law; or,
 - iii) A voter in an all-mail ballot precinct pursuant to existing law.
 - b) The elections official prepares and mails to each voter a voter information guide containing all of the information required to be included in, and accompanied with all the election materials required to accompany, the sample ballot, except for both of the following:
 - i) An application for a VBM ballot; and,
 - ii) A notice that a VBM ballot application is enclosed.
 - c) The voter is furnished a VBM ballot in accordance with existing law.
- 3) Provides that for each voter to whom the elections official elects not to mail a sample ballot pursuant to the provisions of this bill, the election official may cause to be printed one less copy of the sample ballot.

EXISTING LAW:

- 1) Outlines procedures for voting by mail and establishes requirements for elections officials to compare the signature on a VBM ballot envelope with that appearing on the affidavit of registration. Provides that if the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. Requires the cause of the rejection to be written on the face of the identification envelope.
- 2) Requires elections officials to establish procedures to track and confirm the receipt of VBM ballots and to make this information available by means of online access using the county's elections division Internet website. Provides that if the county does not have an elections division Internet website, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted VBM ballot was received.
- 3) Requires the Secretary of State to establish a free access system to allow any voter who casts a provisional ballot to discover whether his or her provisional ballot was counted and, if not, the reason why it was not counted.
- 4) Requires sample ballots be identical to official ballots and that the sample ballots be printed on paper of a different texture from the paper to be used for the official ballot.
- 5) Provides that in order to facilitate the timely production and distribution of sample ballots, the county elections official may prepare a combined sample ballot, which also contains the voter information guide.
- 6) Requires every ballot to contain all of the following:
 - a) The title of each office;
 - b) The names of all qualified candidates;
 - c) The titles and summaries of measures; and,
 - d) Instructions to voters.
- 7) Requires the sample ballot to contain, among other things, the following items:
 - a) A copy of the official ballot used in the election;
 - b) A notice of the polling place to each voter;
 - c) A complete copy of each local measure;
 - d) A copy of the arguments and rebuttals for and against each local measure; and,
 - e) A copy of the analysis of each local measure.

FISCAL EFFECT: Unknown. State-mandated local program: contains an offsetting savings disclaimer.

COMMENTS:

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

For the first time in California's history, a majority of voters in a general election cast their ballots by mail. Fifty-one percent, or 6,753,688 out of the 13,202,158 Californians who voted in the November 6, 2012 election, voted by mail. Unfortunately, 59,370 vote-by-mail ballots were rejected by county registrars throughout the state during the November 6, 2012 election. These vote-by-mail voters submitted their ballots and thought they voted, not knowing that their ballots were actually rejected. Existing law already provides voters who cast a provisional ballot at a polling place with the ability to verify with county election officials if their provisional ballot was counted, and if not, to learn why it was not counted. Vote-by mail voters do not have this same ability.

SB 589 would also allow vote-by-mail voters to contact their local registrar of voters to determine if their ballot was counted. If their ballot was rejected, the bill requires the registrar to inform the vote-by-mail voter why their ballot was rejected so they can remedy the problem for future elections. Under current law these vote-by-mail voters have no way of knowing there's a problem and don't know to fix the problem. The most common reasons for a rejected vote-by-mail ballot are late submission (registrar receives the ballot in the mail after the election) and the signature on the ballot not matching with the signature on the registration form.

The "free access system" requirement in the bill provides county registrars with flexibility to determine how they want to comply with the provisions of the bill. County registrars can comply with the bill by informing voters on a walk-in basis, informing voters over the phone, or informing voters online.

SB 589 also provides county registrars with flexibility on printing requirements in order to reduce redundancy for voters. The bill allows county registrars to omit the sample ballot language when they mail the voter information guide to vote-by-mail voters. This is a reasonable option since vote-by-mail voters will receive the actual ballot containing complete ballot language for all measures shortly after the voter information guide is delivered. Instead of receiving the ballot language twice, vote-by-mail voters will only receive it once when they receive their ballot.

2) VBM Voting in California: Since the passage of AB 1520 (Shelley), Chapter 922, Statutes of 2001, which allowed any voter to become a permanent VBM voter, the number of voters choosing to vote using a VBM ballot has increased significantly. In the 2000 general election, 24.5% of votes cast were VBM ballots, compared to 41.6% in the 2008 general election, 48.4% in the 2010 general election, and 51.1% in the 2012 general election. These trends suggest that the number of voters opting to vote by VBM ballot will continue to increase in the future.

- 3) Reasons Why a VBM Ballot Might Not be Counted: Historically, there have been two primary reasons why a VBM ballot that was completed and returned to the elections officials may not be counted. One of the most common reasons is that many ballots are received by the elections office after election day, and state law requires that VBM ballots be received by the close of polls on election day in order to be counted. A voter who was under the mistaken impression that his or her ballot would be counted as long as the envelope was postmarked by election day could repeatedly have his or her ballot not counted, if that voter regularly waited until election day to put the VBM ballot in the mail.

The other primary reason why a VBM ballot might not be counted is that the signature on the identification envelope does not match the one on the voter's affidavit of registration. Illness and age can be factors that contribute to a signature changing over time. For example, many older voters do not realize that the signature on file with the registrar of voters no longer matches their current signature and as a result their VBM ballot may not be counted. In addition, recent county reports show that there has been an increase in signatures being rejected for "no match" among young voters. According to Contra Costa County Clerk-Recorder's November 6, 2012 General Presidential Election Report, at the November 2010 election, they found that voters less than 50 years of age and clustered in the 20-39 age groups represented a disproportionately high number of rejected ballots for no signature match.

This bill provides a mechanism for voters to verify if their ballot has been counted and, if not, a reason why it was not counted. Voters whose ballots were not counted would be able to take appropriate steps to ensure their VBM ballots are counted in the future.

- 4) Will This Be Helpful to Counties? As mentioned above, current law requires county elections officials to send all voters, including VBM voters, a sample ballot that is an identical copy of the official ballot. In addition to a copy of the official ballot, current law requires the sample ballot to contain, among other things, a notice of the polling place to each voter, a complete copy of each local measure, and an analysis of each measure. This bill instead would allow county elections officials to elect not to send a sample ballot to a VBM voter, as specified, as long as the information that accompanies the sample ballot is provided to the voter. Proponents argue that the sample ballot duplicates the information on the VBM ballot already being sent to those same voters and that this bill will simplify the information going to VBM voters, increase efficiency, and reduce printing and postage costs incurred by county elections officials.

While this option may be helpful to some county elections officials, others will not be able to utilize this option. For example, Los Angeles County has been using the InkaVote Plus Voting System for all their elections since 2003. This device uses an ink marker and requires each voter to insert their ballot card into the voting device, or vote recorder, securing the ballot over fixed red pins and then "inks" the ovals on their ballot card accordingly.

According to staff with the Los Angeles County Registrar Recorder's Office, in addition to their ballot card, VBM voters receive a VBM instruction guide/sample ballot. All candidates and measures up for election have corresponding numbers printed inside the instruction guide and correspond to the numbers printed on the voter's ballot. The ballot can accommodate up to 360 offices and or measures. Consequently, Los Angeles County would likely be unable

to elect not to send sample ballots to VBM voters, as specified.

On the other hand, according to the proponents of the bill, other counties do currently have the infrastructure and capability to elect to not mail sample ballots to voters, as specified. Moreover, depending on the county, this bill could be beneficial and result in a reduction in printing and mailing costs. Additionally, proponents of the bill state that this option may also help reduce voter confusion, as VBM voters will only receive ballot language once when they receive their official ballot. With the continued increase in voters choosing to vote by mail, this bill could be a helpful option for some counties.

- 5) Related Legislation: AB 1135 (Mullin), which is pending in the Senate Elections & Constitutional Amendments Committee, allows an elections official to use supporting documents, as specified, in the voter's file when comparing the signature on the voter's VBM ballot. AB 1135 passed this committee on a 5-2 vote.
- 6) Previous Legislation: AB 293 (Hill) of 2011, which is similar to this bill, was vetoed by Governor Brown. In his veto message, the Governor stated that while he supports the author's goal, under existing law, local governments can already implement this type of database on their own.

AB 2616 (Hill) of 2010, which is similar to this bill, was vetoed by Governor Schwarzenegger. In his veto message, the Governor wrote, "I cannot support mandating additional costs in this time of fiscal crisis. Nothing in current law prohibits county elections officials from providing this information and I would encourage them to do so as resources allow."

REGISTERED SUPPORT / OPPOSITION:

Support

Secretary of State Debra Bowen (sponsor)
California Common Cause
California Federation of Teachers
California State Council of the Service Employees International Union

Opposition

None on file.

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