

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Marc Berman, Chair

AB 2835 (Calderon) – As Introduced February 16, 2018

SUBJECT: Elections: ballots.

SUMMARY: Makes changes to ballot layout provisions of law to accommodate new voting technologies. Specifically, **this bill:**

- 1) Expands the definition of a ballot by authorizing an electronic touchscreen system that contains paper ballots to qualify as a ballot if the votes are tabulated manually or by optical scanning equipment.
- 2) Permits a paper cast vote record to be considered a ballot if the paper cast vote record is generated on a voting device or machine that complies with ballot layout requirements and is tabulated by a separate device from the device that created the paper cast vote record.
- 3) Makes minor changes to ballot layout specifications related to the size and spacing of text.
- 4) Deletes provisions of law that require a ballot to contain a voting "square" that a voter marks to indicate his or her selections on a ballot, and instead requires a ballot to contain a voting "target." Defines a "target" to mean an object designated as the aim for a voter to make a vote selection.
- 5) Makes clarifying, technical, corresponding changes.

EXISTING LAW:

- 1) Defines a "ballot" to mean any the following:
 - a) The combination of a card with number positions that is marked by the voter and the accompanying reference page or pages containing the names of candidates and the ballot titles of measures to be voted on with numbered positions corresponding to the numbers on the card;
 - b) One or more sheets of paper upon which are printed the names of the candidates and the ballot titles of measures to be voted on by punching or marking in the designated area;
 - c) One or more sheets of paper upon which are printed the names of candidates and the ballot titles of measures to be voted on by marking the designated area and that are tabulated manually or by optical scanning equipment; or,
 - d) An electronic touchscreen upon which appears the names of candidates and ballot titles of measures to be voted on by touching the designated area on the screen for systems that do not contain a paper ballot.
- 2) Defines a "paper cast vote record" to mean an auditable document that corresponds to the selection made on the voter's ballot and lists the contests on the ballot and the voter's selections for those contests. Provides that a paper cast vote record is not a ballot.

- 3) Requires a ballot to contain the title of each office, the names of all qualified candidates, as specified, ballot designations, as specified, titles and summaries of measures submitted to voters, and instructions to voters, among other items.
- 4) Requires a ballot to follow certain formatting requirements, such as the order of offices that appear on the ballot, the numbering of ballot measures, instructions to voters, font type, font size, margin widths, spacing of contests, voting square size, and write-in spaces, among other requirements.
- 5) Permits a county elections official to make ballot formatting changes to accommodate the limitations of a voting system or vote tabulating device, as specified.

FISCAL EFFECT: None. This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS:

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

Our voting systems have not kept pace with evolving technology. Voting systems require updates in order to continue providing secure election services that are accessible and easy for voters to use. In order to integrate new technology into voting systems, ballot layouts need to be updated. Current definitions in the Elections Code do not allow county registrars and election administrators to change their ballot layouts, even to make them more accessible or understandable. These ballot layout changes are necessary to incorporate new formats of ballots, vote-by-mail ballots, or new devices for marking a voter's choice.

AB 2835 will provide more flexibility for elections administrators to decide ballot layout and how to integrate new technology with voting systems. The bill updates the definitions of a ballot and a paper cast vote record. AB 2835 also loosens requirements on ballot type size and font as well as the location and size of ballot columns.

Additionally, AB 2835 removes references to the shape of voting targets. This will allow election administrators to update ballot layouts to have voting targets that could have a candidate's name, party, or ballot designation, instead of a particular, statutorily required shape.

This change in code ensures that the systems are in compliance without substantively impacting the usability or accessibility of the ballot designs. Furthermore, it allows for continued innovation and improvements to ensure voters clearly understand how to use their ballots with minimal unintentional residual votes without the need for further revisions.

- 2) **Voting Solutions for All People Project (VSAP):** Due to Los Angeles County's size, diversity, complexity, and the limited voting systems market, it is extremely challenging for Los Angeles to reasonably consider a commercial off-the-shelf voting system. Consequently, in 2009, in partnership with the Voting Technology Project, and with the financial support of the James Irvine Foundation, the County of Los Angeles Registrar-Recorder/County Clerk (RR/CC) launched the VSAP with the goal of implementing a new

and enhanced voting system that meets the growing voting system needs and challenges faced by Los Angeles County.

According to VSAP background documents, the vision of the VSAP is to identify and implement a new voting system in a transparent and participatory manner that takes into account the needs and expectations of current and future Los Angeles County voters. The VSAP aims at achieving three goals in the process: 1) give current and future Los Angeles County voters an unprecedented opportunity to participate in the assessment and development process; 2) increase voter confidence in the electoral process through the participatory structure of the project; and 3) synthesize public input and research to acquire or develop a new voting system for the County.

According to background information, the new voting system concept features touch-screen technology with a simple user interface, both audio and visual output and a built-in scanner, printer and ballot box. The new voting system will provide voters with options to scan in quick response (QR) coded ballots from their phone, enter their ballot choices in-person at the polling location, or vote by mail with printed ballots.

This bill updates the definitions of a ballot and a paper cast record to ensure Los Angeles's new voting system and the voting process described above is in compliance with existing law.

- 3) **Governor's Budget and New Voting Machines:** The Governor's 2018-2019 budget proposes \$134 million in one-time General Fund spending to purchase new equipment for county voting systems. This equipment includes hardware, software, and initial licensing to replace existing systems and technology. Under the proposal, counties would provide a dollar-for-dollar match to receive the state funding.
- 4) **Federal Election Security Funding:** On March 23, 2018, President Trump signed the Consolidated Appropriations Act of 2018 (Act)—the omnibus spending bill for the federal fiscal year ending on September 30, 2018. Among other provisions, the Act provided \$380 million in Help America Vote Act funding to the U.S. Elections Assistance Commission (EAC) to make payments to states for activities to improve the administration of elections for Federal office, including to enhance election technology and make election security improvements. States that receive federal funds are required to provide a match of five percent of the funds received within two years of receiving the federal funds.

According to information from the EAC, California's share of the federal funding is \$34,558,876, and the state's required five percent match totals \$1,727,944. The EAC notes that a joint explanatory statement prepared by Congress to indicate congressional intent on how the funds may be spent specifies that states may use the funds to replace electronic voting equipment that does not have a paper trail; to implement a post-election audit system; to upgrade election-related computer systems to address cyber vulnerabilities; to facilitate cybersecurity training for state and local election officials; to implement established cybersecurity best practices; and to fund other activities that will improve the security of elections for federal office.

5) **Arguments in Support:** In support, Disability Rights California writes:

Many individuals with sensory disabilities use accessible systems to vote privately and independently. This bill is good public policy because it promotes accessibility by qualifying touchscreen systems as ballots. It also simplifies the process and makes it easier so that elections officials do not have to remark ballots from accessible voting systems. This ensures privacy for the voter and eliminates the possibility of inaccuracies that can occur during the remarking process.

REGISTERED SUPPORT / OPPOSITION:

Support

Disability Rights California

Opposition

None on file.

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