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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Steven Glazer, Chair  
2021 - 2022 Regular

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**Bill No:** SB 29 **Hearing Date:** 1/14/21  
**Author:** Umberg  
**Version:** 12/7/20  
**Urgency:** Yes **Fiscal:** Yes  
**Consultant:** Scott Matsumoto

**Subject:** Elections: vote by mail ballots.

**DIGEST**

This bill requires county elections officials to mail a vote by mail (VBM) ballot to every registered voter and requires county elections officials to use a VBM ballot tracking system established by the Secretary of State (SOS) for elections conducted prior to January 1, 2022, as specified.

**ANALYSIS**

Existing law:

- 1) Provides that a registered voter may vote by mail by requesting a VBM ballot for a specific election or by becoming a permanent VBM voter.
- 2) Requires county elections officials to begin mailing ballots and other required materials to voters no later than 29 days before the day of the election.
- 3) Provides that if specified data indicates that a voter has moved and left no forwarding address, or if a voter has moved out of the state, the county elections official shall update the status of the voter's registration to inactive. Voters with an inactive voter registration status do not receive election materials and are not included in calculations to determine the number of signatures required for qualification of candidates and measures, precinct size, or other election administration-related processes.
- 4) Requires the SOS to establish, by January 1, 2020, a system that a county elections official may use to allow a voter to track the voter's VBM ballot through the mail system and processing by the county elections official.
- 5) Required, for the November 3, 2020 statewide general election and as specified, county elections officials to mail a ballot to every active registered voter and to use either the SOS's ballot tracking system or a system that meets or exceeds the level of service provided by the SOS's system.
- 6) Authorizes, pursuant to the California Voter's Choice Act (CVCA), any county to conduct any election occurring on or after January 1, 2020, as an all-mailed ballot election if certain conditions are met. When conducting an election under the CVCA,

the county elections official must mail a ballot to every registered voter, regardless of whether the voter is a permanent VBM voter or a voter who requested a VBM ballot for that election.

- 7) Provides that whenever there are 250 or fewer persons registered to vote in any precinct, the elections official may furnish each voter with a VBM ballot along with a statement that there will be no polling place for the election.
- 8) Provides that certain local elections may be conducted as all-mail ballot elections, as specified.

This bill:

- 1) Requires county elections officials to mail a ballot to every registered voter for an election conducted prior to January 1, 2022, as specified.
- 2) Requires county elections officials to use the VBM ballot tracking system established by the SOS for an election conducted prior to January 1, 2022, unless the county makes available to voters a different VBM ballot tracking system that meets or exceeds the level of service provided by the SOS's system.
- 3) Makes the findings and declarations.
- 4) Contains an urgency clause.

### **BACKGROUND**

COVID-19 and Elections. According to data from Johns Hopkins University, there were only 25 confirmed cases of COVID-19 in California when the state conducted its March 3, 2020 statewide primary election. The primary election was largely unaffected by the COVID-19 pandemic, but it was reported that county elections officials saw a higher than usual number of poll workers who failed to show up to work on Election Day.

Following the primary election, the SOS's office established and convened a working group to discuss the future conduct of elections due to the challenges posed by the worsening COVID-19 pandemic. The working group consisted of SOS staff, legislative staff, gubernatorial staff, local elections officials, and representatives from numerous good government and voting rights organizations, among others.

Among the issues discussed during the working group's meetings were concerns that the COVID-19 pandemic would make voters less willing to vote in person, reduce the number of people willing to serve as poll workers, reduce the number of locations willing to serve as in-person voting locations, and require the use of different types of locations for in-person voting given the potential need to be able to accommodate physical distancing during in-person voting. A number of the recommendations from the working group provided the foundation for legislation pertaining to the November 3, 2020 statewide general election.

AB 860. In light of the COVID-19 pandemic, the Legislature passed and Governor Newsom signed legislation that established a minimum set of requirements for the November 3, 2020 statewide general election.

One such bill, AB 860 (Berman), Chapter 4, Statutes of 2020, required county elections officials to mail a ballot to every active registered voter for the November 3, 2020 statewide general election. Additionally, AB 860 required county elections officials to permit any voter to cast a ballot using a certified remote accessible VBM system, required county elections officials to use either the SOS's ballot tracking system or a system that meets or exceeds the level of service provided by the SOS's system, extended the deadline by which VBM ballots must be received from three days after Election Day to 17 days after Election Day, and authorized counties to begin processing VBM ballots on the 29th day before the election.

The changes established by AB 860 were only applicable for the November 3, 2020 statewide general election. The provisions for this bill are based off some of the provisions from AB 860.

Overall Turnout for the November 2020 General Election. According to the SOS, for the November 3, 2020 statewide general election, there were 22,047,448 registered voters. This amounted to 87.87 percent of the total number of people eligible to register to vote.

The total number of voters who voted in the November election was 17,785,151. This was 80.67 percent of registered voters. Voters who voted by mail totaled 15,423,301 or 86.72 percent. Precinct voters amounted to 2,361,850 or 13.28 percent.

Mail Delivery. Following the November 2020 election, the United States Postal Service (USPS) released a post-election analysis regarding the delivery of election-related mail. According to their preliminary findings and using their own internal ballot processing scores as a basis, the USPS stated that 97.9 percent of ballots mailed from voters to election officials was delivered within three days. Additionally, 99.7 percent of ballots mailed from voters was delivered within five days. It should be noted that these are nationwide numbers and not broken down by each state.

Ballot Tracking. In February 2020, the SOS launched a "Where's My Ballot?" tool that allowed voters to receive notifications about their VBM ballots. Voters who signed up received automated notifications by voice call, email, or text when the county elections office mailed the voter's ballot, when the county received the voter's ballot, when the county counted the ballot, and when there were any issues with the voter's ballot. Pursuant to AB 860, counties were required to use this ballot tracking system developed by the SOS, or another system that meets or exceeds to SOS system. As a result, "Where's My Ballot?" was available in every county for the November statewide general election. According to a press release from the SOS on overall turnout for the November 2020 statewide general election, over 5 million California voters signed up to receive these notifications.

### **COMMENTS**

- 1) According to the author: California conducted a safe, secure, and accurate November 2020 Presidential Election due, in large part, to SB 423 (2020) authored

by Senator Umberg and AB 860 by Assemblymember Berman. The historic turnout for the 2020 election was 80.7% (as of early December) despite the pandemic. SB 423 and this year's successor, SB 29, set statewide minimum standards for counties to conduct safe and accessible in-person voting procedures in light of the Covid-19 pandemic. Both voters and election workers need to be guaranteed a safe environment in order to conduct elections. This bill will guarantee that all eligible voters living in jurisdictions conducting elections in 2021 will be mailed a vote-by-mail ballot in order to give the option for individuals to vote at home if they wish.

- 2) Suggested Amendment. While this bill affects elections conducted prior to January 1, 2022, it is possible to have a special vacancy election take place in 2021 and, if needed, be completed in a special general/runoff election in 2022. If that were to happen, the special primary election for a vacancy scheduled in 2021 would operate using this bill's provisions and the potential special general/runoff election scheduled in 2022 would not, unless a county already is required or chooses to send all active registered voters a VBM ballot and decides to use a ballot tracking system. Committee staff recommends that this bill be amended to extend the bill's provisions to elections proclaimed prior to January 1, 2022. Specifically, committee staff recommends the following language:

Amendment #1: Insert "proclaimed or" on Page 2, Lines 24, to read: "... an election **proclaimed or** conducted prior to January 1, 2022, the county elections official..."

Amendment #2: Insert "proclaimed or" on Page 4, Line 2, to read: "...an election **proclaimed or** conducted prior to January 1, 2022, the county elections official..."

- 3) Argument in Support. In a letter supporting SB 29, the California Teachers Association (CTA) states, in part, the following:

*This measure is necessary, given the ongoing pandemic, to give voters participating in special elections during 2021 the same opportunities to utilize the same vote-by-mail option authorized during the 2020 elections.*

*CTA believes one of our most important freedoms is the right to vote and be a full participant in the electoral process and we should explore all opportunities to increase voter participation. Voting is the right and responsibility of all citizens and the state must establish voting procedures which maximize citizen participation in the democratic process.*

*For these reasons, the California Teachers Association supports Senate Bill 29 and urges its passage when it is heard in the Senate Elections & Constitutional Amendments Committee.*

- 4) Argument in Opposition. In a letter opposing SB 29, Election Integrity Project California, Inc. (EIPCa) states, in part, the following:

*As EIPCa argued in the hearings regarding AB 860, Californians already have the unrestricted right at any time to simply pick up the phone and request a VBM for any or all elections. Those who still feel too vulnerable to venture out to vote in person do not need the State to make their voting decisions for them. No*

*one's health will be jeopardized by allowing voters to make their own choices. And doing so will protect legitimate voters from the cancellation of their legal ballots by those who are facilitated to double vote, vote from the grave, vote from another state, etc.*

*We urge you not to double down on the ill-advised AB 860 and its catastrophic impact on both election integrity and on voter confidence.*

### **RELATED/PRIOR LEGISLATION**

AB 37 (Berman) of 2021 would require county elections officials to mail a VBM ballot to every active registered voter and require the use of a ballot tracking system for all future elections, as specified. This bill is pending in the Assembly Committee on Elections.

AB 860 (Berman), Chapter 4, Statutes of 2020, among other provisions, required county elections officials to mail a ballot to every registered voter and required county elections officials to use the VBM ballot tracking system developed by the SOS for the November 3, 2020 statewide general election.

### **POSITIONS**

**Sponsor:** Author

**Support:** California Teachers Association  
Orange County Employees Association

**Oppose:** Election Integrity Project California, Inc.

**-- END --**