
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 504 (Becker) - Elections: voter registration

Version: February 17, 2021

Urgency: No

Hearing Date: May 3, 2021

Policy Vote: E. & C.A. 5 - 0, PUB. S. 5 - 0

Mandate: Yes

Consultant: Robert Ingenito

Bill Summary: SB 504 would require (1) a county elections official to make conditional voter registration available to military and overseas voters via a certified remote accessible vote by mail (RAVBM) system, and (2) the Secretary of State (SOS) to provide county elections officials with identifying information for persons imprisoned for the conviction of a felony and persons on parole or otherwise released from that imprisonment, as specified.

Fiscal Impact:

- SOS indicates that it would incur first-year General Fund costs of \$278,000, and \$268,000 annually thereafter, to implement the provisions of the bill.
- The California Department of Corrections and Rehabilitation (CDCR) would incur minor and absorbable costs.
- By requiring county elections officials to perform the bill's specified duties, this bill creates state-mandated local programs. To the extent the Commission on State Mandates determines the provisions of this bill impose a higher level of service, counties could claim reimbursement for those costs (General Fund). The amounts are unknown, but potentially significant.

Background: To be entitled to register to vote, current state law requires a person to be (1) a United States citizen, (2) a resident of California, (3) not imprisoned for the conviction of a felony, and (4) at least 18 years of age at the time of the next election. In order to maintain an updated and current voter file, elections officials are required to cancel the voter registrations of individuals who are imprisoned for the conviction of a felony. However, a person who is on parole or probation is permitted to register to vote and vote.

Various bills have been signed into law over the years to help educate individuals with a criminal history about their voting rights. For example, AB 149 (Weber, Chapter 580, Statutes of 2013) required a county probation department to either establish a hyperlink on its internet website to SOS's voting rights guide for persons with a criminal history or to post a notice that contains SOS's internet website address where the voting rights guide can be found. In 2014, a pair of bills were enacted to further this effort. AB 2243 (Weber, Chapter 899, Statutes of 2014) required CDCR to make specified information relating to voting rights of incarcerated persons available to the public, and parolees under their jurisdiction. SB 1063 (Block, Chapter 624, Statutes of 2014) required state and local juvenile detention facilities to identify individuals housed in those facilities who

are eligible to register to vote and provide assistance in completing affidavits of registration and returning the completed voter registration cards, as specified.

In addition, AB 1344 (Weber), Chapter 796, Statutes of 2017, required CDCR and county probation departments to provide specified voting rights information to persons under their jurisdiction upon request of such person, as specified. In 2020, ACA 6 (McCarty, Resolution Chapter 24, Statutes of 2020), proposed to amend the California Constitution to allow individuals who are on parole for conviction of a felony to vote if they otherwise meet all other eligibility requirements. This measure appeared as Proposition 17 at the statewide general election held on November 3, 2020 where the measure was approved by voters.

Conditional voter registration permits eligible citizens who need to register or re-register to vote within 14 days of an election to register and vote at their county elections office, polling place, or vote center. Their ballots are processed and counted once the county elections office has completed the voter registration verification process.

Under existing law, an individual is permitted to register to vote electronically. When registering to vote as a military or overseas voter, a voter can choose to have their ballot mailed, faxed, or emailed to them. County elections officials begin sending ballots to military and overseas voters 60 days before Election Day. The voter may return the completed ballot to their county elections official by mail or, in certain circumstances, by fax. If returning a voted ballot by fax, then the voter must fax an "Oath of Voter" form waiving the voter's right to a confidential ballot.

In 2009, President Obama signed into law the Military and Overseas Voter Empowerment (MOVE) Act to expand the 1986 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). The UOCAVA was established to protect the rights of service members to vote in federal elections regardless of where they are stationed. The MOVE Act builds on UOCAVA to provide greater protections for service members, their families, and other overseas citizens.

In addition to being compliant with all provisions in the MOVE Act, California law also makes other accommodations to facilitate voting by military voters and other California residents who are outside of the U.S. Specifically, current law provides that an application for a VBM ballot by an overseas voter is deemed to be a request for voter registration (if the voter was not already registered to vote) and an application for permanent VBM voter status. In addition, California makes all overseas voters permanent VBM voters, thereby eliminating the need for overseas military voters and other overseas voters to request a VBM ballot for each election.

In 2012, the Legislature passed and Governor Brown signed AB 1805 (Huffman, Chapter 744, Statutes of 2012), which established new voting procedures for military and overseas voters to comply with the UOCAVA as well as the Uniform Military & Overseas Voter Act adopted by the National Conference of Commissioners on Uniform State Laws. Among other provisions, AB 1805 expanded the definition of military or overseas voters and expanded the use of the Federal Write-In Absentee Ballot by allowing use by military or overseas voters in non-federal elections to ensure continuity and uniformity across state lines.

AB 1929 (Gorell), Chapter 694, Statutes of 2012, established processes and procedures for the review and approval of ballot marking systems, as defined, for use in California elections. A ballot marking system speeds up the amount of time it takes for a military or overseas voter to cast a ballot by allowing a military or overseas voter to electronically obtain a ballot specific to the precinct in which they reside and electronically mark their ballot. The information marked on the voter's ballot is formatted onto a document that the voter may print out and mail or fax to their county elections official. Finally, AB 2252 (Ting), Chapter 75, Statutes of 2016, allowed a military or overseas voter or a voter with disabilities to electronically receive and mark their VBM ballot using a RAVBM system.

Proposed Law: This bill would, among other things, do the following:

- Require an elections official to make conditional voter registration and voting available to military and overseas voters through a certified RAVBM system, as specified.
- Repeal provisions of law that require the clerk of the superior court of each county to furnish SOS and the county elections official, not less than the first day of every month, a statement showing the names, addresses, and dates of birth of all persons who have been committed to state prison as the result of a felony conviction, as specified.
- Require CDCR to provide to SOS, on a weekly basis and in a format prescribed by SOS, specified identification information for the following: (1) persons imprisoned, or on parole, for the conviction of a felony and under the jurisdiction of CDCR, and (2) persons released from imprisonment, or released from parole, for the conviction of a felony and no longer under the jurisdiction of CDCR.
- Require SOS to provide the information specified by this bill to county elections officials within three days of receipt of the information from CDCR.
- Require a county elections official, upon receipt of information from SOS, to do all of the following:
 - Cancel the affidavit of registration of any person imprisoned for the conviction of a felony and under the jurisdiction of CDCR whose registration information matches a unique identifier provided by the SOS to the county used in the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).
 - Notify individuals on parole or individuals released from imprisonment for the conviction of a felony and no longer under the jurisdiction of CDCR, and whose last known address is within the county, as specified, that the individual's voting rights are restored and advise the individual that if the individual is otherwise entitled to register to vote the individual may register to vote. Requires the county elections official to also provide the individual with information regarding the procedure for registering to vote.

- Provide that a county or county elections official is not liable for erroneously adding, canceling, or failing to cancel the affidavit of registration of any person based on information provided by SOS or CDCR, as specified. Provides that a county or county elections official is not liable for taking or failing to take the specified actions described when the county or county elections official have received incomplete information from SOS or CDCR.

Related Legislation:

- AB 2252 (Ting), Chapter 75, Statutes of 2016, allowed a military or overseas voter or a voter with disabilities to electronically receive and mark the voter's VBM ballot using a RAVBM system.
- AB 787 (Gipson, 2019), among other provisions related to voter registration activities in county jail facilities, would have required the SOS to provide county elections officials with identifying information for persons imprisoned for the conviction of a felony and persons on parole or otherwise released from that imprisonment, as specified. The bill was held under submission on the Suspense File of this Committee.

Staff Comments: SOS would specifically require two additional positions to administer the bill. Specifically, it would impact SOS's Office of Voting Systems Technology Assessment (OVSTA), because it would require that all RAVBM vendors re-test for certification of their systems. The addition layer of testing (for integration with other SOS IT platforms), processes and procedure, business analysis, and other unforeseen issues with this transition of RAVBM systems would change the certification process significantly, and the two positions would be needed to accommodate the workload.

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