

## ASSEMBLY THIRD READING

AB 292 (Pellerin)

As Amended May 18, 2023

Majority vote

**SUMMARY**

Requires a nonpartisan ballot provided to a voter who has declined to disclose a political party preference (commonly referred to as a No Party Preference (NPP) voter) for use in voting during a presidential primary election to have specified information that advises how a voter may request and vote a partisan ballot (also known as a crossover ballot). Permits an NPP voter to send a text message to request the ballot of a political party that has authorized a NPP voter to vote in its partisan primary election, as specified.

**Major Provisions**

- 1) Requires a nonpartisan ballot provided to an NPP voter for use in voting during a presidential primary election to have a notice printed on the ballot that advises the voter of all of the following:
  - a) You are registered voter as an NPP voter and therefore ineligible to vote for a presidential candidate unless you request and vote a partisan ballot.
  - b) The following parties allow an NPP voter to vote in their presidential primaries: [list of parties]. You may request a ballot to vote for one these primaries from your county elections official.
  - c) You may request a partisan ballot in the following ways: [list of means available to the voter in the county].
  - d) If you wish to vote in the presidential primary of a party not listed above, you must update your voter registration and request the ballot of that party.
  - e) If you are unable to request and receive a partisan ballot in time to return it for an upcoming election, you may request a remote accessible vote by mail (RAVBM) ballot from your county elections official in the following ways: [list of means available to the voter in the county].
  - f) [Description of the county's procedures for accepting and processing a RAVBM ballot.]
- 2) Modifies the notice and application mailed to an NPP voter prior to each partisan primary election that allows the voter to request a vote by mail (VBM) ballot of a party that authorizes NPP voters to vote in its primary election, as specified.
- 3) Authorizes an NPP voter to request by text message a crossover VBM ballot from the appropriate elections official, if the county has established a system for such requests.

**COMMENTS**

Since January 1, 2001, California has had a "modified" closed primary system for presidential primaries that permits an NPP voter to participate in a party's primary election if authorized by

the individual party's rules and duly noticed to the Secretary of State (SOS). If authorized by a party, NPP voters are allowed to vote for the office of US President for that party. This is commonly referred to as a "crossover" ballot. The SOS maintains a list of the history of the political parties who adopted a party rule permitting NPP voters to request a party ballot in recent primary elections for partisan offices on its website. For the March 3, 2020, presidential primary election and the June 7, 2016, presidential primary election the following parties allowed NPP voters to obtain a crossover ballot: American Independent Party, Democratic Party, and Libertarian Party.

### **According to the Author**

"Voters who are registered to vote as No Party Preference (NPP) voters often do not realize that they cannot vote in a presidential primary without requesting a partisan ballot from a political party which allows crossover voting. Despite current requirements for notices to be sent to NPP voters prior to a Presidential Primary election, many voters fail to request a party ballot. With the statewide expansion of vote-by-mail, more voters are waiting until Election Day to open, vote, and return the ballot mailed to them. This means that many NPP voters will not realize that their ballot does not have the option to vote in a Presidential Primary until Election Day. Our bill would ensure that NPP voters who wish to crossover vote are not prevented from doing so by the lack of the appropriate ballot."

### **Arguments in Support**

With a support position on a prior version of this bill, California Common Cause writes, "With all voters now receiving a mail ballot, the potential for confusion by an NPP voter has only increased. NPP voters up to and on Elections Day can still go to an in-person voting location to request a crossover ballot or update their party registration. However, if they fail to act ahead of time, they will only have available the nonpartisan mail ballot with no listed candidates, which will keep the voter from expressing their preferences in the presidential race and may lead to misimpressions of voter disenfranchisement. AB 292 would make it easier for NPP voters to request their preferred ballot ahead of time...As of October 2022, there were over 4.9 million Californians registered to vote with no party preference, according to the Secretary of State, meaning that AB 292 will help millions of Californians more easily vote for their candidate of choice in our presidential primaries."

### **Arguments in Opposition**

With an oppose position to a prior version of this bill, the Election Integrity Project California, INC. writes, "Under current CA statute and procedures, NPP voters already receive multiple mailings and notifications from their county elections office in advance of the vote by mail ballot mailing, giving them ample opportunity to request the legal ballot of their choice—at substantial cost to the taxpayers. NPP voters who fail to make such a request and consequently receive an NPP ballot in the mail also receive notification that they have the right to call their elections office to request the replacement ballot of their choice should they wish to vote a crossover ballot—again with taxpayers footing the bill for all subsequent mailings and ballot printing."

## **FISCAL COMMENTS**

According to the Assembly Appropriations Committee:

- 1) By requiring a county elections official to modify NPP ballots and applications for crossover ballots, this bill may create a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher

level of service for which the state must reimburse local costs, the county could claim reimbursement from the state (General Fund). Individual counties may incur costs to provide more complex NPP ballots and process more crossover ballot applications.

- 2) One-time costs of approximately \$100,000 to the SOS to test and modify the VoteCal statewide voter database to accommodate this bill's changes to elections management.

## **VOTES**

### **ASM ELECTIONS: 6-1-1**

**YES:** Bryan, Bennett, Lee, Low, Pellerin, Blanca Rubio

**NO:** Essayli

**ABS, ABST OR NV:** Lackey

### **ASM APPROPRIATIONS: 11-4-1**

**YES:** Holden, Bryan, Calderon, Wendy Carrillo, Mike Fong, Hart, Lowenthal, Papan, Pellerin, Weber, Ortega

**NO:** Megan Dahle, Dixon, Mathis, Sanchez

**ABS, ABST OR NV:** Robert Rivas

## **UPDATED**

VERSION: May 18, 2023

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