
THIRD READING

Bill No: AB 292
Author: Pellerin (D)
Amended: 6/12/23 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 6-1, 6/20/23
AYES: Glazer, Allen, McGuire, Menjivar, Newman, Umberg
NOES: Nguyen

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 59-15, 5/25/23 - See last page for vote

SUBJECT: Primary elections: ballots

SOURCE: Author

DIGEST: This bill modifies the notice and application mailed to voters who have declined to disclose a political party preference (commonly referred to as a No Party Preference (NPP)) prior to each partisan primary election, as specified. This bill also 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. Finally, this bill requires a nonpartisan ballot provided for use in a presidential primary election to include specified information.

ANALYSIS:

Existing law:

- 1) Requires a county elections official to mail a ballot to every active registered voter for every election in which the voter is eligible to participate, and provides that the distribution of vote by mail (VBM) ballots to registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.

- 2) Permits a person to choose a political party preference when registering to vote.
- 3) Permits an NPP voter to request the ballot of a political party at a partisan primary election if the political party, by party rule duly noticed to the Secretary of State (SOS), authorizes an NPP voter to vote in its primary election.
- 4) Requires, at a presidential primary election, that an NPP voter be furnished only a nonpartisan ballot, unless they request a ballot of a political party and that political party, by party rule noticed to the SOS, authorizes NPP voters to vote the ballot of that political party. Requires the nonpartisan ballot to contain only the names of candidates for nonpartisan offices, voter-nominated offices, and measures to be voted for at the primary election.
- 5) Permits a political party to adopt a party rule that authorizes an NPP voter to vote the ballot of that political party at the next ensuing partisan primary election. Requires the political party to notify the party chair immediately upon adoption of that party rule and requires the party chair to provide written notice of the adoption of that rule to the SOS no later than the 135th day before the partisan primary election at which the vote is authorized.
- 6) Requires a county elections official to maintain a record of which political party's ballot was requested, or whether a nonpartisan ballot was requested, by each NPP voter. Requires the record to be made available to any person or committee who is authorized to receive copies of the printed roster for primary and general elections under existing law.
- 7) Requires a county elections official, with each nonpartisan VBM ballot that is sent to an NPP voter, to include a notice informing the voter that the voter may request a political party's ballot at the next ensuing partisan primary election if the political party has so authorized.
- 8) Requires a county elections official, prior to each partisan primary election, to mail to every NPP voter a notice and application informing the voter that they may request a VBM ballot for a particular political party for the primary election, if that political party adopted a party rule, duly noticed to the SOS, authorizing NPP voters to vote in their primary election. Requires the notice to contain a printed statement that reads substantially similar to the following: "I have declined to disclose a preference for a qualified political party. However,

for this primary election only, I request a vote by mail ballot for the _____ Party.” Permits this application to be submitted to the appropriate county elections official in person, or by mail, email, or facsimile transmission.

- 9) Allows an NPP voter to request the ballot of a political party that has authorized an NPP voter to vote in its partisan primary election as follows:
 - a) By telephone pursuant to all of the following procedures:
 - i) Requires a voter, when requesting a party’s ballot by telephone, to provide to the elections official personal identifying information that matches the information contained on the voter’s affidavit of registration, including first and last name, home address, and date of birth. The voter’s signature shall not be required.
 - ii) Prohibits a person from requesting a party’s ballot pursuant to this section using the name of, or on behalf of, another person.
 - iii) Requires a voter requesting a party’s ballot, prior to being asked for personal identifying information, to be advised as follows: “Only the registered voter themselves may request a ballot from a political party. A request for a party’s ballot that is made by any person other than the voter is a criminal offense.”
 - b) On an application over the internet, if available.
 - c) By a written statement application submitted in person, or by mail, email, or facsimile transmission.
- 10) Permits an NPP voter who has received a nonpartisan VBM ballot to return their unused ballot to the county elections official and request and receive the ballot for a political party if the political party has authorized an NPP voter to vote in its partisan primary election.
- 11) Requires the SOS to prepare and distribute to county elections officials a uniform application format for a voter to request a political party’s ballot at the next ensuing partisan primary election if the political party has so authorized.
- 12) Requires a poll worker, at a partisan primary election, before providing an NPP voter with a nonpartisan ballot or before the voter enters the voting booth, to

provide a uniform notification to the voter informing them that they may request a political party's ballot and the name of each political party that has authorized an NPP voter to vote its ballot.

This bill:

- 1) Modifies the notice and application required to be mailed to an NPP voter prior to each partisan primary election that allows the voter to request a VBM ballot of a party that authorizes NPP voters to vote in its primary election. Specifically:
 - a) Requires the application to contain a list of political parties that have authorized an NPP voter to vote that party's ballot. Requires the application contain a box to mark, indicating that the voter wishes to vote that party's ballot, next to each party's name.
 - b) Requires the voter to provide personal identifying information on the application that matches the information contained on the voter's affidavit of registration, including their first and last names, home address, and date of birth. Requires the voter to sign the application.
 - c) Requires the notice or application to instruct the voter that they may request a VBM ballot for the party they select by submitting the completed application to the appropriate county elections official in person, by mail, email, facsimile transmission, or by other electronic means made available by the county elections official.
- 2) Authorizes an NPP voter to send a text message to the appropriate elections official to request the ballot of a political party that has authorized an NPP voter to vote in its partisan primary election, if the county has established a system for processing such a request.
- 3) Requires a voter to provide identifying information that matches the information contained on the voter's affidavit of registration, including their date of birth, home address, and first and last names when requesting a ballot on an application over the internet if available, by a written statement application, or by text message, as specified. A similar requirement exists for request by telephone.

- 4) Provides that the voter's signature is not required when requesting an NPP ballot by telephone, on an application over the internet, or by text message, as specified. Provides that the voter's signature is required when requesting an NPP ballot by a written statement application submitted in-person or by mail, email, or facsimile transmission.
- 5) Provides that an NPP voter may appear to vote in person and receive a ballot for a political party if the political party has authorized the NPP voter to vote in its partisan primary election.
- 6) Requires that a ballot for NPP voters advises voters of at least the following information:
 - a) A statement saying that "You are registered as a No Party Preference voter and therefore ineligible to vote for a presidential candidate unless you request and vote a partisan ballot."
 - b) A statement saying that "The following parties allow a No Party Preference voter to vote in their presidential primaries: [list of parties]. You may request a ballot to vote in one of these primaries from your county elections official."
 - c) An advisement that the voter may find additional information in the voter information guide or on the county elections official's internet website, as specified.
- 7) Permits the notice requirements in 6) to advise the voter of additional information, including the following:
 - a) A list of means available in the county for the voter to request a partisan ballot.
 - b) A statement that if the voter wishes to vote in the presidential primary of a party that does not permit a NPP voter to vote, the voter must update their voter registration and request the ballot of that party.
 - c) A list of means available in the county for the voter to request a remote accessible vote by mail (RAVBM) ballot, in case the voter is unable to request and receive a partisan ballot in time to return it for an upcoming election.

- d) A description of the county's procedures for accepting and processing a RAVBM ballot.
- 8) Makes other technical and conforming changes.

Background

Voter Registration Data. According to the SOS's February 10, 2023 Report of Registration, California has 21,980,768 million registered voters. Of the 21,980,768 voters, 10,305,901 (46.89%) are registered with the Democratic Party, 5,236,952 (23.83%) are registered with the Republican Party, 4,941,314 (22.48%) are registered as NPP, and 1,496,601 (6.81%) are registered with other parties or with political bodies that are seeking to qualify as political parties.

Political Parties, NPP Voter History, and Previous Legislation. 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 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. Current law requires a political party to notify the SOS no later than the 135th day before Election Day. The deadline for the March 5, 2024 presidential primary election is anticipated to be October 30, 2023.

News articles have reported that previous presidential primary elections have been complicated and confusing for NPP voters to navigate. For instance, during the 2016 presidential primary election there were a significant number of media articles and complaints from voters across the state that reported they were not provided information on how to vote as an NPP voter and that poll workers were not knowledgeable about the process to obtain a crossover ballot. Some counties were proactive in educating NPP voters about their option to obtain a crossover ballot and provided written notification informing NPP voters of their option to choose a crossover ballot. However, other counties only provided an NPP voter with ballot option information upon request.

NPP voter experiences during the 2016 presidential primary election called attention to the lack of uniform statewide procedures and timelines for how an NPP voter can request and receive a ballot to vote in the presidential primary election. In response, the Legislature approved and Governor Brown signed AB 837 (Low, Chapter 819, Statutes of 2018) which streamlined and standardized procedures to ensure non-affiliated voters are informed of their rights when casting a ballot. Specifically, AB 837 established clear requirements for the SOS, county elections officials, and poll workers to notify and educate voters about their right to choose a crossover ballot, as specified.

In December 2019, in preparation for the 2020 presidential primary election, all California county elections officials mailed postcards to every NPP voter who was registered to VBM. The postcard provided NPP voters with their presidential primary voting options and encouraged NPP voters to complete and return the postcard with their selection in order to receive a VBM ballot listing presidential candidates from one of the parties. Additionally, then-Secretary of State Alex Padilla sent emails to NPP voters reminding them of the presidential primary rules and their options for requesting a ballot with presidential candidates.

Comments

According to the author, voters who are registered to vote as 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 VM, 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. This bill ensures that NPP voters who wish to crossover vote are not prevented from doing so by the lack of the appropriate ballot.

Related/Prior Legislation

AB 2608 (Berman, Chapter 161, Statutes of 2022), required the SOS to prepare and distribute to county elections officials a uniform application for an NPP voter to request a political party's ballot at the next partisan primary election if the political party has so authorized.

AB 37 (Berman, Chapter 312, Statutes of 2021) required county elections officials to mail a ballot to every active registered voter for all future elections, and made other changes to VBM processes, procedures, and requirements, as specified.

AB 837 (Low, Chapter 819, Statutes of 2018) streamlined and standardized procedures to ensure NPP voters are informed of their rights when casting a ballot.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 7/11/23)

California Association of Clerks and Election Officials

California Calls

California Common Cause

California Environmental Voters

League of Women Voters of California

NextGen California

OPPOSITION: (Verified 7/11/23)

None received

ASSEMBLY FLOOR: 59-15, 5/25/23

AYES: Addis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Connolly, Mike Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Irwin, Jackson, Jones-Sawyer, Kalra, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Pellerin, Petrie-Norris, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ting, Valencia, Villapudua, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NOES: Alanis, Chen, Megan Dahle, Davies, Dixon, Essayli, Flora, Vince Fong, Gallagher, Hoover, Joe Patterson, Sanchez, Ta, Waldron, Wallis

NO VOTE RECORDED: Aguiar-Curry, Lackey, Mathis, Papan, Jim Patterson, Quirk-Silva

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7/12/23 17:22:35

**** END ****