

Date of Hearing: March 15, 2023

ASSEMBLY COMMITTEE ON ELECTIONS
Isaac G. Bryan, Chair
AB 545 (Pellerin) – As Introduced February 8, 2023

SUBJECT: Elections: access for voters with disabilities.

SUMMARY: Permits a voter with a disability to vote by regular ballot outside *any* polling place (also referred to as “curbside” voting). Eliminates provisions of law that require a voter to declare under oath that they are unable to mark their ballot in order to receive assistance marking their ballot. Specifically, **this bill**:

- 1) Expands the list of supplies an elections official is required to provide at each polling place to assist a voter with a disability to include handheld magnifying glasses, displayed and available at the table or desk used by the precinct board, and a signature guide card, to assist persons while signing their names on the roster, displayed and available at the table or desk used by the precinct board.
- 2) Deletes a provision of law that requires a voter, in order to receive assistance marking their ballot, to declare under oath, administered by any precinct member at the time the voter appears at the polling place to vote, that the voter is unable to mark their ballot, and instead allows a voter that is unable to mark a paper ballot or the ballot marking device to receive assistance without taking that oath.
- 3) Repeals provisions of law that require a polling place to be inaccessible under the accessibility guidelines promulgated by the Secretary of State (SOS) in order for a voter with a disability be allowed to vote a regular ballot outside of the polling place (curbside voting). Repeals provisions of law that require a vote by mail (VBM) ballot to be provided if it is impractical to vote a regular ballot outside a polling place, and instead permits a voter with a disability to vote a *regular* ballot outside *any* polling place.
- 4) Requires a county elections official to provide information on the county elections official’s internet website informing a voter with a disability that they may vote a regular ballot outside any polling place.
- 5) Requires signage to be posted outside a polling place and adjacent to the area where the voter may appear to vote indicating that the option is available for a voter with a disability to vote there. Requires a polling place to establish a method for a voter with a disability to contact a precinct board member in order to vote outside the polling place, such as a posted phone number, doorbell device, or the stationing of a precinct board member outside the polling place.
- 6) Modernizes terminology used to describe a voter with a disability.
- 7) Makes corresponding changes.

EXISTING STATE LAW:

- 1) Provides that a person entitled to register to vote shall be a United States citizen, a resident of California, not in prison for the conviction of a felony, and at least 18 years of age at the time of the next election. (California Constitution Article II, §§2, 4)
- 2) Requires an elections official to furnish to each polling place all of the following:
 - a) At least one accessible copy of the voter list.
 - b) Necessary printed blanks for the roster, tally sheets, voter list, declarations, and returns.
 - c) Not fewer than six nor more than twelve instruction cards to each polling place for the guidance of voters in obtaining and marking their ballots.
 - d) A digest of the election laws with any further instructions the county elections official may desire to make.
 - e) An American flag of sufficient size to adequately assist the voter in identifying the polling place.
 - f) A ballot container, properly marked on the outside indicating its contents.
 - g) At least one copy of the certified write-in list, if applicable.
 - h) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about their polling place.
 - i) An identifying badge or insignia for each member of the precinct board.
 - j) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages in accordance with existing law.
 - k) Sufficient copies of the notices to be posted on the voter list used at the polls.
 - l) A roster for each polling place in the form prescribed in accordance with existing law.
 - m) Printed copies of the Voter Bill of Rights, as supplied by the SOS.
 - n) For a partisan primary election, printed copies of the posters or other materials pursuant to existing law. (Elections Code §14105)
- 3) Requires an elections official, when designating polling places, to undertake necessary measures in the locating of polling places to ensure that polling places meet the guidelines promulgated by the SOS for accessibility by the physically handicapped. (Elections Code §12280)
- 4) Requires a voter, if a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is unable to

mark a ballot, to receive the assistance of not more than two persons selected by the voter, other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member. (Elections Code §14282(a))

- 5) Requires a county elections official to provide information on the county elections Internet Web site and in the county voter information guide informing voters that a voter who is unable to mark a ballot may bring up to two individuals to the polls to assist them in voting. (Elections Code §14282(b))
- 6) Prohibits a person assisting a voter from divulging any information regarding the marking of the ballot. (Elections Code §14282(c))
- 7) Provides that in those polling places that are inaccessible under the guidelines promulgated by the SOS for accessibility by the physically handicapped, a physically handicapped person may appear outside the polling place and vote a regular ballot. Permits the person to vote the ballot in a place that is as near as possible to the polling place and that is accessible to the physically handicapped. Requires a precinct board member to take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place. (Elections Code §14282(d))
- 8) Requires VBM ballots, in those precincts in which it is impractical to vote a regular ballot outside the polling place, to be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on election day. Requires the VBM ballot to be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by that person outside the polling place. (Elections Code §14282(d))

EXISTING FEDERAL LAW:

- 1) Provides, in general, protections to people with disabilities that are similar to protections provided to individuals on the basis of race, color, sex, national origin, age, and religion. Requires state and local governments to ensure people with disabilities have a full and equal opportunity to vote and applies to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on election day or during an early voting process. (42 U.S.C. §12101 et seq.)
- 2) Requires an election official to allow a voter who is blind or has another disability to receive assistance from a person of the voter's choice (other than the voter's employer or its agent or an officer or agent of the voter's union). Prohibits conditioning the right to vote on a citizen being able to read or write, attaining a particular level of education, or passing an interpretation test. (52 U.S.C. §10101 et seq.)
- 3) Requires, in general, accessible polling places in federal elections for elderly individuals and people with disabilities. Provides that where no accessible location is available to serve as a polling place, an alternate means of casting a ballot on the day of the election must be provided. Requires states to make available registration and voting aids for disabled and elderly voters, including information by telecommunications devices for the deaf. (52 U.S.C. §20101 et seq.)

- 4) Requires jurisdictions responsible for conducting federal elections to provide at least one accessible voting system for persons with disabilities at each polling place in federal elections. Requires the accessible voting system to provide the same opportunity for access and participation, including privacy and independence, that other voters receive. (52 U.S.C. §21081 et seq.)

FISCAL EFFECT: Unknown. State-mandated local program; contains reimbursement direction.

COMMENTS:

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

Although curbside voting, signature guides, and magnifying glasses are available at many voting locations to help voters with disabilities, minimal requirements in the Elections Code create inconsistency of these [aids] for voting centers across California. AB 545 takes important steps to ensure that the voting process is accessible to voters with disabilities. Specifically, it requires that all in-person voting locations offer curbside voting and establishes uniform requirements for curbside voting statewide. AB 545 also clarifies requirements relating to supplies, services, and procedures at voting locations. Lastly, AB 545 removes the outdated requirement that voters with disabilities swear under oath that they need assistance completing a ballot. AB 545 will make low-cost yet impactful improvements to the accessibility of in-person voting for voters with disabilities.

- 2) **Curbside Voting:** Voting outside of the polling location (also known as “curbside” voting) enables a voter to have a voting experience outside the voting area when a polling place is not accessible. In other words, under existing law any voter who cannot reach the voting area at the polling place because of architectural barriers or physical limitations may be allowed to vote “curbside.” In practice, voters may use curbside voting from their vehicle or along the path of travel to the voting area. An elections official will qualify the voter, bring a ballot, and any other voting materials the voter may need to cast their ballot privately and independently. This bill expands access to voters with disabilities by allowing a voter with a disability to vote a regular ballot outside *any* polling place, regardless of whether the polling place is inaccessible. Additionally, this bill deletes a requirement that a voter, in order to receive assistance to mark their ballot, must issue a declaration under oath that they are unable to mark their ballot before receiving assistance.
- 3) **Previous Legislation:** Due to concerns that conducting in-person voting during the spread of COVID-19 could threaten the health and safety of voters, election workers, and the public generally, in 2020 the Legislature approved and Governor Newsom signed bills that made significant changes to the way that the state conducted the November 2020 presidential general election. Those changes largely were enacted through two bills—AB 860 (Berman), Chapter 4, Statutes of 2020 and SB 423 (Umberg), Chapter 31, Statutes of 2020. Notably, those bills required that a mail ballot be sent to every active registered voter, provided voters in all counties with the ability to track their ballot, authorized changes to in-person voting requirements, and made other changes to facilitate the expected surge in voting by mail at the November election. Among other provisions, SB 423 urged each county to provide drive-through ballot drop-off or voting locations. In practice one of the ways a county elections

official complied with this provision was by providing curbside voting.

- 4) **Secretary of State Accessibility Guidelines:** The SOS, in coordination with the California Department of Rehabilitation, designs Polling Place Accessibility Guidelines to help elections officials ensure polling places are accessible to voters with disabilities to the extent possible. California polling places and vote centers provide voters with disabilities the opportunity to vote their ballot privately and independently. All voting locations are surveyed in advance to ensure they are accessible to voters with disabilities, including accessible voting technology available to all voters; designated accessible parking as close to the voting area as possible; and, curbside voting. In practice, telephone numbers are posted at polling locations informing voters how to contact election workers to let them know the voter requires assistance.
- 5) **Arguments in Support:** The sponsors of this bill, Disability Rights California (DRC), writes:

Although only required at locations that are not accessible, curbside voting has long been offered in some counties for voters with disabilities. In 2020, pandemic related changes made curbside voting available at all voting locations for the November General Election. Many counties have continued to make curbside voting available, or will provide it if asked, even though there is no on-going requirement. Curbside voting is important for some voters with disabilities because it makes in-person voting more practical...The availability of curbside voting varies county to county. But even in the counties where it is available, there is no or limited signage, uneven levels of staff training, and no way for voters to contact election workers inside the voting location. Many counties that currently offer curbside voting have no means for voters to easily get the attention of election workers that they would like to vote curbside.

Recent poll monitoring demonstrates the need for curbside requirements. Curbside voting availability was surveyed during a large-scale poll monitoring project by a Northern California non-profit during the November 2022 General Election. The poll monitoring project observed 247 voting locations in 17 counties. Only about half of the voting locations had signage posted. Five of the counties had no signage at any voting locations. ...

Since 2018, DRC's poll monitoring has consistently demonstrated the uneven availability of handheld magnifiers and signature guides at voting locations. A best practice is to make these devices available and prominently displayed on the voter check in table. Many counties have handheld magnifiers and signature guides at voting locations but it is not a requirement to do so...We would like it to be a clear requirement for these voting supplies to be at all voting locations and displayed at the voter check-in table. These supplies are low cost for election administration and very useful for voters with disabilities. Handheld magnifiers can help voters better navigate the voter check-in process and complete their ballot. Signature guides are simple devices that help some people with disabilities provide a signature. It is a plastic card with a cut out box for lining up over a signature line. This allows some people with disabilities to more easily sign their

name in the required area.

Finally, voters with disabilities should be allowed to get assistance with marking their ballot without swearing an oath to an election worker that they are unable to complete a ballot. DRC believes this is rarely required in practice. It is an overly burdensome requirement for voters with disabilities which should be removed.

- 6) **Arguments in Opposition:** With an oppose unless amended position, the Election Integrity Project California, Inc. writes:

The sole reason for our opposition is in the elimination of the first sentence in 14282 (a) of Sec. 2.

The administering of the oath to a voter needing assistance protects the voter from unwanted intimidation. Any voter being forced to accept unwanted “help” from an accompanying person will have the protection of the elections officials to vote independently without duress by simply refusing to take the oath, or by naming a different assisting individual in taking the oath.

If the mandate for the assisted voter oath is eliminated, voters may lose their right to vote independently or to receive assistance from the individual of their choice.

REGISTERED SUPPORT / OPPOSITION:

Support

Disability Rights California (Sponsor)
California Association of Clerks and Election Officials
California Council of the Blind
California Environmental Voters
League of Women Voters of California
RespectAbility

Opposition

Election Integrity Project California, Inc. (unless amended)

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