
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Scott Wiener, Chair
2025 - 2026 Regular

Bill No: SB 970 **Hearing Date:** 4/7/26
Author: Cervantes
Version: 2/3/26
Urgency: No **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Military or overseas voters

DIGEST

This bill requires the Secretary of State (SOS) to promulgate regulations to facilitate the secure return of ballots from military and overseas voters delivered through electronic transmission methods.

ANALYSIS

Existing law:

- 1) Requires every active registered voter to receive a vote by mail (VBM) ballot for any election.
- 2) Requires election officials to send a ballot not earlier than 60 days but not later than 45 days before an election to military and overseas voters.
- 3) Permits a military or overseas voter living outside of the United States, or who is called for military service within the United States on or after the seventh day prior to Election Day, to return their ballot by facsimile transmission. To be counted, the ballot must be returned no later than the closing of the polls on Election Day.

This bill requires the SOS to promulgate regulations to facilitate the secure return of ballots from military and overseas voters delivered through electronic transmission methods.

BACKGROUND

Existing Practices. For California elections, a military or overseas voter registers as a military or overseas voter and receives their ballot by mail, fax, or email, which must be sent beginning 60 days and no later than 45 days before Election Day. To return their ballot, a military or overseas voter who is living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to apply for a VBM ballot, is permitted to return their ballot by fax or by mail. If a voter is faxing their ballot to their county elections official, an "Oath of Voter" form also is needed in order to waive the voter's right to a confidential vote.

Department of Defense Fax Service. When voting abroad, the Federal Voting Assistance Program (FVAP) provides assistance for service members, service members' families, and overseas citizens in voting in elections. Prior to 2025, as part of the program, the Department of Defense Fax Service was available for those voters who could not send their election materials directly to their elections official. A voter was able to use the FVAP Transmission Cover Sheet and fax the proper election materials to a specific number. If a voter needed to send election materials by fax to the elections official and did not have access to a fax machine, the voter was able to email their election materials to a specific email address and FVAP faxed the voter's election materials for the voter to the proper elections official.

On August 1, 2025, the FVAP discontinued their Department of Defense Fax Service. As a result, in California, a military or overseas voter must fax or mail their ballot directly to their elections official.

Risk Management for Electronic Ballot Return. In 2020, the Cybersecurity and Infrastructure Security Agency, the Election Assistance Commission, the Federal Bureau of Investigation, and the National Institute of Standards and Technology assessed the risks with electronic ballot delivery, marking, and return. The assessment noted that the electronic return of ballots "creates significant security risks to the confidentiality of ballot and voter data, integrity of the voted ballot, and availability of the system." The report also stated that because securing the electronic return of voted ballots, ensuring ballot integrity, and maintaining voter privacy is difficult, if not impossible, the use of electronic ballot return "should be limited to voters who have no other means to return their ballot and have it counted."

Other States. According to the National Conference of State Legislatures, 26 states, the District of Columbia, and the U.S. Virgin Islands permit a subset of voters to return ballots either by email or an online portal. This includes voters who are military and overseas voters, voters with disabilities, specific voters during a declared emergency, or voters living in a specific county. These states include Alabama, Arizona, Colorado, Delaware, Hawaii, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, Utah, Washington, and West Virginia.

COMMENTS

- 1) Author's Statement. At the core of our democratic ideals is the idea that all lawfully registered Americans should be able to exercise their right to vote, regardless of whether they are currently residing in the U.S. or not. This is a very salient issue for overseas voters and voters who are currently deployed abroad as members of the U.S. Armed Forces. In 2025, the federal government announced that it was discontinuing the Department of Defense Fax Service through the FVAP, which allowed overseas voters and members of the Armed Forces to submit their ballot by fax. If the federal government will not do its part to ensure these voters have access to the franchise, then California must step in. This bill would allow the SOS to work with stakeholders to create a process to allow military and overseas voters to submit their ballots via an electronic system that balances security and our sacred right to vote.

- 2) Balancing Act. Access and security are two critical factors involved when examining voting systems that support an electronic return of ballots. If a voter is eligible to vote and is unable to vote, it creates an access issue for the voter attempting to participate in the democratic process. If a voting system or an electronic delivery system is not secure, it creates concerns about whether the voter's ballot is tabulated accurately and correctly and damages the confidence that an election is accurate, free, and fair. These factors have positive and negative attributes and should be weighed appropriately when attempting to find an ideal balance between access and security to ensure that a voter has the ability to cast a vote using a secure voting system wherever the voter is located.
- 3) Future Secretaries of State. This bill requires the SOS to promulgate regulations to facilitate the secure return of ballots from military and overseas voters delivered through electronic transmission methods. This gives the SOS and any future SOS wide-ranging regulatory authority that could make any type of electronic return of ballots easier or more difficult. The committee should consider whether providing the SOS with a mandate to create a regulatory structure for the electronic return of ballots of military and overseas voters is too broad of an approach, especially if future SOS' could facilitate changes to the initial regulations.
- 4) Argument in Support. In a letter sponsoring this bill, the California Association of Clerks and Election Officials states, in part, the following:

The decline of landlines and scarcity of fax machines has been a concern of county registrars and is why this has been a legislative priority for CACEO over the past four years. For military and overseas voters, excessive cost also acts as a barrier to voting on top of scarcity. The Council of State Governments Overseas Voting Initiative found that, regardless of access, the already minimal use of fax by military voters decreased from 2% in 2010 to 0.8% in 2018 (The History of Fax for UOCAVA Ballots. Council of State Governments, July 2022).

[...]

By working with the SOS to promulgate regulations for secure electronic return of ballots, this bill would play a critical role in protecting the franchise for all Californians living abroad, including our military service members and their families. Without this legislation, too many military and overseas voters would be vulnerable to disenfranchisement if left to rely solely on traditional mail service.

- 5) Argument in Opposition. In a letter opposing this bill, the Indivisible California Green Team states, in part, the following:

It is well known among election officials that voting systems should never be connected to the internet, precisely because of the above threats. Yet it is impossible to offer "electronic return" without connecting a vote server to the internet during the allowed days of voting. Such a server would be a bright target for attackers from our national rivals or for our own domestic partisans.

[...]

It should be noted that there are not and never have been any standards or regulations for any form of supposedly “secure” electronic ballot return anywhere in the U.S. No state has attempted it, nor has the Election Assistance Commission or National Institute of Standards and Technology. The reason is that it is just not possible to do it honestly. Some jurisdictions do allow various forms of electronic ballot return, but they do so primarily by contracting with vendors and simply certifying such systems on the authority of the SOS (or equivalent) without benefit of any standards.

RELATED/PRIOR LEGISLATION

SB 1480 (Glazer) of 2022 would have permitted the SOS to certify a remote accessible vote by mail system that allows a voter with a qualifying disability, as defined, to return their ballot electronically. The bill passed the Senate, but was not heard by the Assembly Committee on Elections.

POSITIONS

Sponsor: California Associations of Clerks and Election Officials

Support: California Narcotic Officers’ Association
California State Association of Counties
Riverside Sheriffs’ Association

Oppose: Brennan Center for Justice
California Voter Foundation
Free Speech for People
Indivisible California Green Team
Public Citizen
Verified Voting

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