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SB-503 Voting: ballots and signature verification. (2021-2022)

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Senate Bill No. 503

CHAPTER 319

An act to amend Sections 2194, 3019, 3026, and 15104 of, and to add Section 15377 to, the Elections Code, relating to voting.

[Approved by Governor September 27, 2021. Filed with Secretary of State September 27, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 503, Becker. Voting: ballots and signature verification.

(1) Existing law requires an elections official, upon receiving a vote by mail ballot, to verify the signature on the identification envelope by comparing it with the signature on specified records within the voter's registration record. Existing law requires the elections official, if the signatures do not compare or if the voter fails to sign the identification envelope, to provide a voter the opportunity to verify the voter's signature by signing and returning a signature verification statement or an unsigned ballot statement, which the elections official will use instead to compare signatures. Existing law requires an elections official to use the same procedures for comparing signatures for provisional ballots that are used for comparing signatures for vote by mail ballots. Existing law requires the Secretary of State to promulgate guidelines for county elections officials relating to the foregoing provisions.

This bill would (1) apply a presumption, for purposes of the comparison of signatures in the voter's registration record, that the signature on an identification envelope, signature verification statement, unsigned ballot statement, or provisional ballot envelope, is the voter's signature; (2) specify that an exact signature is not required for an elections official to determine that the signature is valid and the fact that signatures share similar characteristics is sufficient to determine the signature is valid; (3) permit a ballot to be rejected only if two officials determine beyond a reasonable doubt that a voter's signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record; (4) prohibit an elections official from reviewing or considering a voter's party preference, race, or ethnicity, when comparing signatures; and (5) require the elections official to send, on or before the next business day after determining that a voter's signature does not compare or is missing, except as specified, notice to the voter of the opportunity to verify or provide a signature and a postage-paid return envelope for the voter to return a signature verification statement or unsigned ballot statement. The bill would also require an elections official comparing signatures, including when the official uses signature verification software or other technology, to adhere to applicable regulations promulgated by the Secretary of State.

(2) Existing law requires elections observers to be allowed sufficiently close access to enable them to observe the vote by mail ballot return envelopes and the signatures thereon and challenge whether those individuals handling vote by mail ballots are following established procedures, including verifying signatures and addresses on the vote by mail ballot return envelopes by comparing them to voter registration information.

This bill would delete verifying addresses on the vote by mail ballot return envelopes from the procedures that the observers may observe and challenge.

(3) Existing law requires an elections official to send specified information regarding the results of an election to the Secretary of State within 31 days of the election.

This bill would require an elections official to identify and provide to the Secretary of State the number of ballots rejected, categorized according to the reason for the rejection. The bill would require the Secretary of State to provide uniform reason codes for each category of rejection to be used by elections officials, and would require a report containing this information for every election, including local special elections, to be published on the Secretary of State's internet website.

(4) By imposing additional duties on county elections officials related to the conduct of elections, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2194 of the Elections Code is amended to read:

2194. (a) Except as provided in Section 2194.1, the affidavit of voter registration information identified in Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166, 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(4) May be used by the Secretary of State for the purpose of educating voters pursuant to Section 12173 of the Government Code.

(b) (1) Notwithstanding any other law, the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on the affidavit of voter registration of a registered voter, or added to voter registration records to comply with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.), are confidential and shall not be disclosed to any person.

(2) Notwithstanding any other law, the signature of the voter shown on the affidavit of voter registration or an image thereof is confidential and shall not be disclosed to any person, except as provided in subdivision (c).

(c) (1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature compares with a signature on an affidavit of registration or an image thereof or a petition, but shall not permit a signature to be copied.

(d) A governmental entity, or officer or employee thereof, shall not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, "voter's household" is defined as the voter's place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.

(f) Notwithstanding any other law, information regarding voters who did not sign a vote by mail ballot identification envelope or whose signature on the vote by mail ballot identification envelope did not compare with the voter's signature on file shall be treated as confidential voter registration information pursuant to this section and Section 6254.4 of the Government Code. This information shall not be disclosed to any person except as provided in this section. Any disclosure of this information shall be accompanied by a notice to the recipient regarding Sections 18109 and 18540. Voter information provided pursuant to this subdivision shall be updated daily, include the name of the voter, and be provided in a searchable electronic format.

SEC. 2. Section 3019 of the Elections Code is amended to read:

3019. (a) (1) Upon receiving a vote by mail ballot, the elections official shall compare the signature on the identification envelope with either of the following to determine if the signatures compare:

(A) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter.

(B) The signature appearing on a form issued by an elections official that contains the voter's signature and that is part of the voter's registration record.

(2) All of the following apply to the comparison of signatures pursuant to this section:

(A) A presumption exists that the signature on the identification envelope, signature verification statement, unsigned ballot statement, or provisional ballot envelope is the voter's signature.

(B) An exact match is not required for an elections official to determine that a voter's signature is valid. The fact that signatures share similar characteristics is sufficient to determine that a signature is valid.

(C) Except as provided in subparagraph (D), the elections official shall consider explanations for discrepancies between signatures that are specified in regulations promulgated by the Secretary of State. For purposes of this subparagraph, explanations include a variation in signature style over time and the haste with which a signature is written.

(D) When comparing signatures, an elections official shall not review or consider a voter's party preference, race, or ethnicity.

(E) The elections official may consider characteristics of the written signature that are specified in regulations promulgated by the Secretary of State. For purposes of this subparagraph, characteristics include the slant of the signature, letter formation, and whether the signature is printed or written in cursive.

(F) The elections official may use facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

(G) In comparing signatures pursuant to this section, an elections official may use signature verification technology. If signature verification technology determines that the signatures do not compare, the signature is subject to the additional procedures described in paragraph (2) of subdivision (c).

(H) The variation of a signature caused by the substitution of initials for the first or middle name, or both, is not grounds for the elections official to determine that the signatures do not compare.

(I) A signature made using a mark such as an "X", or made by a signature stamp, shall be presumed valid and shall be accepted if the signature meets the requirements of Section 354.5.

(b) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures compare, the elections official shall deposit the ballot, still in the identification envelope, in a ballot container in the elections official's office.

(c) (1) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signature possesses multiple, significant, and obvious differing characteristics when compared to all signatures in the voter's registration record, the signature is subject to the additional procedures described in paragraph (2).

(2) If the elections official makes the determination described in paragraph (1), the signature shall be rejected only if two additional elections officials each find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter's registration record. If the officials determine that the signatures do not compare, the

identification envelope shall not be opened and the ballot shall not be counted. The elections official shall write the cause of the rejection on the face of the identification envelope only after completing the procedures described in subdivision (d).

(d) (1) (A) Except as provided in subparagraph (D), on or before the next business day after a determination that a voter's signature does not compare pursuant to subdivision (c), but not later than eight days prior to the certification of the election, the elections official shall send by first-class mail notice to the voter of the opportunity to verify the voter's signature no later than 5 p.m. two days prior to the certification of the election. The notice shall include a return envelope, with postage paid, for the voter to return a signature verification statement.

(B) Unless required pursuant to Section 3026, the elections official may send additional written notices to a voter identified pursuant to subdivision (c), and may also notify the voter in person, by telephone or email, or by other means of the opportunity to verify the voter's signature.

(C) Unless required pursuant to Section 3026, the elections official may use any information in a county's election management system, or otherwise in the election official's possession, for the purpose of notifying the voter of the opportunity to verify the voter's signature.

(D) If it is impracticable under the circumstances for the elections official to send the notice described in subparagraph (A) on or before the next business day, including in the event of technological failure, the elections official shall send the notice as soon as practicable, but not later than eight days prior to the certification of the election.

(2) The notice and instructions shall be in substantially the following form:

"READ THESE INSTRUCTIONS CAREFULLY. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR VOTE BY MAIL BALLOT NOT TO COUNT.

1. We have determined that the signature you provided on your vote by mail ballot does not compare with the signature(s) on file in your voter record. In order to ensure that your vote by mail ballot will be counted, the signature verification statement must be completed and returned as soon as possible.
2. The signature verification statement must be received by the elections official of the county where you are registered to vote no later than 5 p.m. two days prior to certification of the election.
3. You must sign your name where specified on the signature verification statement (Voter's Signature).
4. Place the signature verification statement into the postage-paid return envelope if it is included with these instructions. If a return envelope is not included with these instructions, use your own mailing envelope addressed to your local elections official. Mail, deliver, or have the completed statement delivered to the elections official. If you mail your completed statement using your own envelope, be sure there is sufficient postage and that the address of the elections official is correct.
5. If you do not wish to send the signature verification statement by mail or have it delivered, you may submit your completed statement by email or facsimile transmission to your local elections official, or submit your completed statement to a polling place within the county or a ballot dropoff box before the close of the polls on election day."

(3) The notice and instructions shall be translated in all languages required in that county by Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

(4) The elections official shall not reject a vote by mail ballot identified pursuant to subdivision (c) if each of the following conditions is satisfied:

(A) The voter delivers, in person, by mail, by fax, or by email, a signature verification statement signed by the voter and the elections official receives the statement no later than 5 p.m. two days prior to the certification of the election, or the voter, before the close of the polls on election day, completes and submits a signature verification statement to a polling place within the county or a ballot dropoff box.

(B) Upon receipt of the signature verification statement, the elections official shall compare the signature on the statement with the signature on file in the voter's record.

(i) If upon conducting the comparison of signatures the elections official determines that the signatures compare, the elections official shall deposit the ballot, still in the identification envelope, in a ballot container in the elections official's office.

(ii) If, under the standards and procedures of subdivision (c), a determination is made that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. The elections official shall write the cause of the rejection on the face of the identification envelope.

(5) The signature verification statement shall be in substantially the following form and may be included on the same page as the notice and instructions specified in paragraph (2):

"SIGNATURE VERIFICATION STATEMENT

I, am a registered voter of _____ County,

State of California. I declare under penalty of perjury that I requested (or I received) and returned a vote by mail ballot. I am a resident of the precinct in which I have voted, and I am the person whose name appears on the vote by mail ballot envelope. I understand that if I commit or attempt any fraud in connection with voting, or if I aid or abet fraud or attempt to aid or abet fraud in connection with voting, I may be convicted of a felony punishable by imprisonment for 16 months or two or three years. I understand that my failure to sign this statement means that my vote by mail ballot will be invalidated.

Voter's Signature

Address"

(6) An elections official shall include the vote by mail ballot signature verification statement and instructions provided in this subdivision on the elections official's internet website and shall provide the elections official's mailing address, email address, and facsimile transmission number on the internet web page containing the statement and instructions.

(7) If the elections official determines that the signatures compare, the official shall use the signature in the signature verification statement, even if returned untimely, to update the voter's signature for future elections.

(e) (1) (A) Notwithstanding any other law, if an elections official determines that a voter has failed to sign the identification envelope, the elections official shall not reject the vote by mail ballot if the voter does any of the following:

(i) Signs the identification envelope at the office of the elections official during regular business hours no later than 5 p.m. two days prior to the certification of the election.

(ii) No later than 5 p.m. two days prior to the certification of the election, completes and submits an unsigned ballot statement in substantially the following form:

"UNSIGNED BALLOT STATEMENT

I, am a registered voter of _____ County,

State of California. I declare under penalty of perjury that I requested (or I received) and returned a vote by mail ballot and that I have not and will not vote more than one ballot in this election. I am a resident of the precinct in which I have voted, and I am the person whose name appears on the vote by mail ballot envelope. I understand that if I commit or attempt any fraud in connection with voting, or if I aid or abet fraud or attempt to aid or abet fraud in connection with voting, I may be convicted of a felony punishable by imprisonment for 16 months or two or three years. I understand that my failure to sign this statement means that my vote by mail ballot will be invalidated.

Voter's Signature

Address"

(iii) Before the close of the polls on election day, completes and submits an unsigned ballot statement, in the form described in clause (ii), to a polling place within the county or a ballot dropoff box.

(B) (i) Except as provided in clause (iv), or before the next business day after discovering that a voter has failed to sign the identification envelope, but not later than eight days prior to the certification of the election, the elections official shall send by first-class mail notice and instructions to the voter of the opportunity to provide a signature no later than 5 p.m. two days prior to the certification of the election. The notice shall include a return envelope, with postage paid, for the voter to return the unsigned ballot statement.

(ii) Unless required pursuant to Section 3026, the elections official may send additional written notices to a voter identified pursuant to this subdivision, and may also notify the voter in person, by telephone or email, or by other means of the opportunity to provide a signature.

(iii) Unless required pursuant to Section 3026, the elections official may use any information in the county's election management system, or otherwise in the election official's possession, for the purpose of notifying the voter of the opportunity to provide a signature.

(iv) If it is impracticable under the circumstances for the elections official to send the notice described in clause (i) on or before the next business day, including in the event of technological failure, the elections official shall send the notice as soon as practicable, but not later than eight days prior to the certification of the election.

(C) If timely submitted, the elections official shall accept any completed unsigned ballot statement. Upon receipt of the unsigned ballot statement, the elections official shall compare the voter's signature on the statement in the manner provided by this section.

(i) If the elections official determines that the signatures compare, the elections official shall attach the unsigned ballot statement to the identification envelope and deposit the ballot, still in the identification envelope, in a ballot container in the elections official's office.

(ii) If, under the standards and procedures of subdivision (c), a determination is made that the signatures do not compare, the identification envelope shall not be opened and the elections official shall provide notice to the voter pursuant to subdivisions (c) and (d).

(D) An elections official may use methods other than those described in subparagraph (A) to obtain a voter's signature on an unsigned identification envelope.

(2) Instructions shall accompany the unsigned ballot statement in substantially the following form:

"READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE STATEMENT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your vote by mail ballot will be counted, your statement should be completed and returned as soon as possible, but no later than 5 p.m. two days prior to the certification of the election.

2. You must sign your name on the line above (Voter's Signature).

3. Place the statement into the postage-paid return envelope if it is included with these instructions. If a return envelope is not included with these instructions, use your own mailing envelope addressed to your local elections official. Mail, deliver, or have delivered the completed statement to the elections official. If you mail your completed statement using your own envelope, be sure there is sufficient postage and that the address of the elections official is correct.

4. If you do not wish to send the statement by mail or have it delivered, you may submit your completed statement by facsimile or email transmission to your local elections official, or submit your completed statement to a polling place within the county or a ballot dropoff box before the close of the polls on election day."

(3) The notice and instructions shall be translated in all languages required in that county by Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503).

(4) An elections official shall include the unsigned ballot statement and instructions described in this subdivision on the elections official's internet website and shall provide the elections official's mailing address, email address, and facsimile transmission number on the internet web page containing the statement and instructions.

(f) A ballot shall not be removed from its identification envelope until the time for processing ballots. A ballot shall not be rejected for cause after the identification envelope has been opened.

(g) For purposes of this section, "certification of the election" means the date the particular elections official submits a certified statement of the results of the election to the governing body pursuant to Section 15372, even if that occurs before the deadline to submit the certified statement of the election results set forth in Section 15372.

(h) In comparing signatures pursuant to this section, including when using signature verification software or other technology, an elections official shall adhere to all applicable regulations promulgated by the Secretary of State.

SEC. 3. Section 3026 of the Elections Code is amended to read:

3026. (a) The Secretary of State shall promulgate regulations establishing guidelines for county elections officials relating to the processing of vote by mail ballots.

(b) The Secretary of State shall evaluate the necessity for procedures that will protect voters' personally identifying information from elections observers present during the signature comparison process specified in Section 3019. These procedures may be included in the regulations promulgated pursuant to this section.

(c) (1) The Secretary of State shall evaluate the cost and necessity of requiring an elections official to use information in the county's election management system, or otherwise in the elections official's possession, for the purpose of notifying a voter of the opportunity to verify a signature pursuant to subdivision (d) of Section 3019 or to provide a signature pursuant to subdivision (e) of Section 3019. Based on this review, the Secretary of State may impose these requirements in regulations promulgated pursuant to this section.

(2) The Secretary of State shall evaluate the cost and necessity of requiring an elections official to send the additional written notices to voters specified in subparagraph (B) of paragraph (1) of subdivision (d) and clause (ii) of subparagraph (B) of paragraph (1) of subdivision (e). Based on this review, the Secretary of State may impose these requirements in regulations promulgated pursuant to this section.

(d) When promulgating or amending regulations pertaining to signature comparison pursuant to Section 3019, the Secretary of State shall consult with recognized elections experts, voter access and advocacy stakeholders, and local elections officials.

SEC. 4. Section 15104 of the Elections Code is amended to read:

15104. (a) The processing of vote by mail ballot return envelopes, and the processing and counting of vote by mail ballots, shall be open to the public, both prior to and after the election.

(b) A member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the processing of vote by mail ballot return envelopes through the counting and disposition of the ballots.

(c) The elections official shall notify vote by mail voter observers and the public at least 48 hours in advance of the dates, times, and places where vote by mail ballots will be processed and counted.

(d) Notwithstanding paragraph (2) of subdivision (b) of Section 2194, vote by mail voter observers shall be allowed sufficiently close access to enable them to observe the vote by mail ballot return envelopes and the signatures thereon and challenge whether those individuals handling vote by mail ballots are following established procedures, including all of the following:

(1) Verifying signatures on the vote by mail ballot return envelopes by comparing them to voter registration information.

(2) Duplicating accurately damaged or defective ballots.

(3) Securing vote by mail ballots to prevent tampering with them before they are counted on election day.

(e) A vote by mail voter observer shall not interfere with the orderly processing of vote by mail ballot return envelopes or the processing and counting of vote by mail ballots, including the touching or handling of the ballots.

SEC. 5. Section 15377 is added to the Elections Code, to read:

15377. (a) The elections official shall identify and provide to the Secretary of State within 31 days of the election the number of ballots rejected, categorized according to the reason for the rejection. The Secretary of State shall provide uniform reason codes for each category of rejection to be used by elections officials for reporting under this section.

(b) Upon receipt of the information described in subdivision (a), the Secretary of State shall publish a report containing the information for every election, including local special elections, on the Secretary of State's internet website.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.