
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Steven Glazer, Chair
2023 - 2024 Regular

Bill No:	AB 292	Hearing Date:	6/20/23
Author:	Pellerin		
Version:	6/12/23		
Urgency:	No	Fiscal:	Yes
Consultant:	Karen French		

Subject: Primary elections: ballots.

DIGEST

This bill modifies the notice and application required to be 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 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. 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 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. Voters who do not choose a political party preference are commonly referred to as "NPP" voters.
- 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 not 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 unvoted 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:
 - a) Simplifies the notice to inform the voter that they may request a VBM for a particular political party for the primary election, if that political party adopted a party rule, noticed to the SOS, authorizing NPP voters to vote in their primary election, and to include a toll-free number, established and maintained by the SOS, that the voter may call to access information about which parties have adopted such a rule.
 - b) Requires the application to contain a list of political parties that have adopted a party rule allowing NPP voters to vote in their primary election, and next to each party's name, a box to mark indicating that the voter wishes to vote that party's ballot. Provides that the application shall also require personal identifying information from the voter, as specified.
- 2) 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, or facsimile transmission, or by other electronic means made available by the county elections official.
- 3) 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. Provides that the voter's signature is not required.
- 4) Requires an NPP voter who is requesting a ballot of a political party over the internet, by written statement, or by text to provide personal 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 name. Provides that a

voter's signature is not required for a request made by an application over the internet. Requires a voter's request made by a written statement application to include the voter's signature.

- 5) 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 at least the following:
 - a) You are registered 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) Requires the notice printed on the ballot to advise the voter that they may find additional information of the voter information guide or on the county elections official's internet website, as specified.
 - d) Permits the notice printed on the ballot to advise the voter of additional information, including the following:
 - i) A list of means available in the county for the voter to request a partisan ballot.
 - ii) 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.
 - iii) A list of means available in the county to 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.
 - iv) A description of the county's procedures for accepting and processing an RAVBM ballot.
- 6) Makes other technical and conforming changes.

BACKGROUND

Voter Registration Data. According to the SOS's February 10, 2023 odd-numbered year report of registration, California has 21,980,768 million registered voters (82.27%). Out of that, 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 and NPP Voter History. 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.

No Party Preference Voters (NPP) Voters and Previous Legislation. 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. Other counties, however, 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.

Moreover, in December 2019, in preparation for the March 1, 2020 presidential primary election, all California county elections officials mailed postcards to every NPP voter who was registered to vote by mail. 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

- 1) 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.

- 2) Argument in Support. In a letter supporting AB 292, California Common Cause states, in part, the following:

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.

RELATED/PRIOR LEGISLATION

AB 2608 (Berman), Chapter 161, Statutes of 2022, repealed various provisions of the Elections Code related to vote by mail (VBM) ballot applications, and made various conforming changes to reflect the fact that state law requires that every active registered voter be mailed a ballot for every election in which the voter is eligible to vote. This bill also required the SOS to prepare and distribute to county elections officials a uniform application for a voter who has declined to disclose a political party preference to request a political party’s ballot at the next partisan primary election if the political party has so authorized.

AB 860 (Berman), Chapter 4, Statutes of 2020, required county elections officials to mail a ballot to every active registered voter for the November 3, 2020 statewide general election, among other provisions. SB 29 (Umberg), Chapter 3, Statutes of 2021, continued that policy for all elections conducted in 2021. AB 37 (Berman), Chapter 312, Statutes of 2021, made that policy permanent for all future elections, and made other changes to VBM processes, procedures, and requirements, including requiring that counties provide VBM ballot drop-off locations for all elections that they conduct.

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

PRIOR ACTION

Assembly Floor:	59 - 15
Assembly Appropriations Committee:	11 - 4
Assembly Elections Committee:	6 - 1

POSITIONS

Sponsor: Author

Support: California Calls
California Common Cause
California Environmental Voters
League of Women Voters of California
NextGen California

Oppose: None received

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