Bill No:	SB 718	**Hearing Date:**	3/21/23
Author:	Wilk		
Version:	2/16/23		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Scott Matsumoto		

Subject: Elections: official canvass: unprocessed ballots

DIGEST

This bill requires an election official to include in unprocessed ballot reports the number of vote by mail ballots that have not been processed because the ballot identification envelope is missing the voter's signature and the number of vote by mail ballots that have not been processed because the ballot identification envelope has a signature that must be verified before the ballot is counted.

ANALYSIS

Existing law:

1) Requires the election official to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election or, in the case of school district, community college district, county board of education, or special district elections conducted on the first Tuesday after the first Monday in November of odd-numbered years, no later than the last Monday before the last Friday of that month.

2) Requires the official canvass to include, but not be limited to, the following tasks:

   a) An inspection of all materials and supplies returned by poll workers.

   b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement.

   c) In the event of a discrepancy in the reconciliation required by b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement.

   d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including vote by mail and provisional ballots, by the vote counting system.

   e) Processing and counting any valid vote by mail and provisional ballots not included in the semifinal official canvass.

  f) Counting any valid write-in votes.

  g) Reproducing any damaged ballots, if necessary.

  h) Reporting final results to the governing board and the SOS, as required.

3) Requires the canvass to commence no later than the Thursday following the election, shall be open to the public, and, for state or statewide elections, shall result in a report of results to the Secretary of State (SOS). Requires the canvass be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed.

4) Defines "unprocessed ballot" to mean a voted polling place ballot, voted vote by mail ballot, voted provisional ballot, or voted conditional registration ballot that has not yet been counted or processed for counting.

5) Requires, on the second day after the election, an election official to send to the SOS an initial report containing the estimated number of outstanding unprocessed ballots.

6) Requires, commencing on the sixth day after the election and on any day that the election official publicly releases updated election results, an election official to send to the SOS a report on the estimated number of outstanding unprocessed ballots. Requires this report to be submitted to the SOS in the form and manner prescribed by the SOS. Requires the last report shall be delivered upon the completion of the official canvass.

7) Requires a voter who voted by mail and either has a missing or a non-comparing signature to submit a statement to remedy or cure their signature no later than 5p.m. two days prior to the certification of the election, as specified.

This bill:

1) Requires an election official to include in unprocessed ballot reports the number of vote by mail ballots that have not been processed because the ballot identification envelope is missing the voter's signature and the number of vote by mail ballots that have not been processed because the ballot identification envelope has a signature that must be verified before the ballot is counted.

BACKGROUND

Unprocessed Ballot Reports. Following Election Day, county election officials send periodic updates to the SOS relating to the estimated number of unprocessed ballots for that election. This data is updated frequently and is posted on the SOS's website.

The data is separated by county and divided into five categories. This includes the number of unprocessed VBM ballots, provisional ballots, conditional voter registrations (i.e. same day registration) ballots, "other" ballots, and the estimated total number of remaining ballots. "Other" ballots include unprocessed ballots that are damaged or

could not be machine-read and need to be remade, and ballots diverted by optical scanners for further review. Finally, there is a notation of when a particular county provided their last update. It should be noted that these numbers are estimated, are not exact figures, and can fluctuate based on the number of ballots received after Election Day.

This bill would create an additional category for the number of vote by mail ballots that have not been processed because the ballot identification envelope is missing the voter's signature and the number of vote by mail ballots that have not been processed because the ballot identification envelope has a signature that must be verified before the ballot is counted.

Vote by Mail Statistics. California voters have increasingly utilized VBM ballots when voting in elections. In the 2022 general election, of 11,146,610 ballots cast, 9,755,188 were VBM ballots. This represents 87.52% of the votes cast in November 2022 and is the highest VBM participation percentage for a general election in the state's history. When comparing the past two gubernatorial general elections (2018 and 2020), there were approximately 1.45 million more VBM ballots in November 2022 than in November 2018. According to data from the SOS, below are statistics of VBM voters and how that compares to the total number of voters.

Vote by Mail Statistics in Statewide General Elections			
Election Date	**VBM Voters***	**Total Voters****	**Percentage of VBM Voters**
November 2, 2010	4,989,852	10,300,392	48.44
November 6, 2012	6,753,688	13,202,158	51.16
November 4, 2014	4,547,705	7,513,972	60.52
November 8, 2016	8,443,594	14,610,509	57.79
November 6, 2018	8,302,488	12,712,542	65.31
November 3, 2020	15,423,301	17,785,151	86.72
November 8, 2022	9,755,188	11,146,610	87.52

*VBM voters only consists of voted and counted VBM ballots.
**Total voters only consists of voters who cast a ballot in the election.

It should be noted that the 2021 gubernatorial recall election was a special statewide election, and not a general election. However, in the gubernatorial recall election, of the 12,892,578 voters who voted, 11,733,429 voters submitted their VBM ballot. This represents 91.01% of voters who participated in the election.

VBM Rejection Rates. VBM ballots can be rejected for a variety of reasons. For example, the ballot may be missing from the envelope, multiple ballots might returned in one envelope, the ballot may arrive after the deadline, there may be a missing or an incorrect address on the VBM envelope, the voter's signature might be missing, the voter's signature might not compare with the signature on file, etc. According to data from the SOS that was derived from VoteCal, California's statewide voter registration database, the November 2020 general election had 86,401 VBM ballots that were challenged. Of the 86,401 challenged VBM ballots, 14,666 ballots (16.97%) were rejected for a missing voter signature and 49,816 ballots (57.66%) were rejected for a signature that did not compare with the one on file. When combined, missing and non-

comparing signatures amounted to 64,482 ballots or 74.63% of the total number of rejected ballots.

For the November 2022 election, the SOS indicated that 120,432 VBM ballots were challenged. Of the 120,432 challenged VBM ballots, 11,897 ballots (9.88%) were rejected for a missing voter signature and 47,963 ballots (39.83%) were rejected for a signature that did not compare with the one on file. When combined, missing and non-comparing signatures amounted to 76,379 ballots or 63.42% of the total number of rejected ballots.

COMMENTS

1) <u>According to the author:</u> SB 718 will ensure that the public is aware of how many mailed ballots were rejected because of a missing or mismatched signature. After every election, California voters deserve to be informed in a transparent and understandable manner.

2) <u>Suggested Amendment – It's All About the Data.</u> This bill seeks to capture and make public the number of ballot envelopes is missing a voter's signature or an envelope that has a signature that does not compare to the signature in the voter's file. However, one part of this bill requires election officials to report the number of vote by mail ballots that have not been processed because the ballot identification envelope has a signature that must be verified before the ballot is counted. This could potentially be the number that is already reported for vote by mail ballots. If the author's goal is to publicize the number of ballot envelopes with a non-comparing signature or a missing signature, then committee staff recommends that the bill be amended to specifically report those data points instead of ballot envelopes that have yet to be processed.

RELATED/PRIOR LEGISLATION

AB 566 (Berman), Chapter 91, Statutes of 2019, required an election official to send "unprocessed ballot" updates to the SOS.

AB 2824 (Thurmond) of 2016, among other provisions, would have required a county election official to post on the county's internet website a statement of results and precinct data on specified dates following the commencement of the semifinal official canvass and until the results are certified in accordance with existing law. AB 2824 was held on the Assembly Appropriation's Suspense File.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

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