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**SENATE COMMITTEE ON  
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**  
Senator Steven Glazer, Chair  
2021 - 2022 Regular

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**Subject:** Remote accessible vote by mail systems

**DIGEST**

This bill permits the Secretary of State (SOS) to certify a remote accessible vote by mail (RAVBM) system that allows a voter with a qualifying disability to return a ballot by electronic means, as specified. This bill also requires county election officials to permit a voter with a qualifying disability to use a certified RAVBM system that enables the voter to return a ballot by electronic means upon certification of system by the SOS, as specified. This bill also permits a voter with a qualifying disability to return a copy of a complete RAVBM ballot by facsimile transmission (fax) if a certified RAVBM system allowing a ballot to be returned electronically is not available for use in the voter's county, as specified.

**ANALYSIS**

Existing law:

- 1) Permits a person who is a United States citizen, a resident of California, not imprisoned for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote and to vote.
- 2) Requires county election officials to mail a ballot to every active registered voter for any election, as specified.
- 3) Requires county election officials to permit any voter to cast a ballot using a certified RAVBM system for any election.
- 4) Permits 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 vote by mail (VBM) ballot, to return their ballot by fax.
- 5) Requires, pursuant to the California Constitution, that voting is secret.
- 6) Provides procedures to cure a missing or non-comparing signature on VBM ballot envelopes received by an elections official, as specified.

- 7) Requires a RAVBM system, in whole or in part, be certified or conditionally approved by the SOS prior to the election at which it is to be first used.
- 8) Requires the SOS to not certify or conditionally approve a RAVBM system, or part of a RAVBM system, unless it fulfills the requirements specified in the Elections Code and the regulations of the SOS.
- 9) Requires the SOS to adopt and publish standards and regulations governing the use of RAVBM systems. Requires RAVBM system standards adopted by the SOS to include, but not be limited to, all of the following requirements:
  - a) The machine or device and its software be suitable for the purpose for which it is intended.
  - b) The RAVBM system preserve the secrecy of the ballot.
  - c) The RAVBM system be safe from fraud or manipulation.
  - d) The RAVBM system be accessible to voters with disabilities and to voters who require assistance in a language other than English if the language is one in which a ballot or ballot materials are required to be made available to voters.
- 10) Permits a person, corporation, or public agency owning or having an interest in the sale or acquisition of a RAVBM system or a part of a RAVBM system to apply to the SOS for certification or conditional approval that includes testing and examination of the applicant's system and a report on the findings, which includes the accuracy and efficiency of the RAVBM system. Specifically, as it relates to the application process:
  - a) Requires as part of the application, the applicant of a RAVBM system or a part of a RAVBM system to notify the SOS in writing of any known defect, fault, or failure of the version of the hardware, software, or firmware of the RAVBM system or a part of the RAVBM system submitted.
  - b) Prohibits the SOS from starting the certification process until the SOS receives a completed application from the applicant of the RAVBM system or a part of the RAVBM system. Requires the applicant to notify the SOS in writing of any defect, fault, or failure of the version of the hardware, software, or firmware of the ballot marking system or a part of the ballot marking system submitted that is discovered after the application is submitted and before the SOS submits the report on the certification of a RAVBM system.
  - c) Requires the SOS to complete their examination of a RAVBM system without undue delay.
  - d) Requires the SOS to use a state-approved testing agency or expert technicians to examine RAVBM systems proposed for use or sale in California. Requires the SOS to furnish a complete report of the findings of the examination and testing to the Governor and the Attorney General.

- e) Provides that the person, corporation, or public agency applying for certification of a RAVBM system is responsible for all costs associated with the testing and examination of the RAVBM system.
  - f) Requires the SOS to provide for a 30-day public review period and conduct a public hearing to give interested persons an opportunity to review testing and examination reports and express their views for or against certification or conditional approval of the RAVBM system prior to publishing the decision to certify, conditionally approve, or withhold certification of a RAVBM system, as specified.
  - g) Requires the SOS to make publicly available a report stating whether the RAVBM system has been certified or conditionally approved, or whether certification has been withheld within 60 days after the completion of the examination of a RAVBM system.
  - h) Requires the SOS make available to the public a full and complete copy of the certification report and all associated documentation, unless certain conditions are met and as specified. Requires the SOS to notify the board of supervisors and the elections official of each county of the availability of the report and associated documentation.
- 11) Provides that, if a RAVBM system has been certified or conditionally approved by the SOS, it shall not be changed or modified until the SOS has been notified in writing and has determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and recertification or reapproval. Permits the SOS to adopt rules and regulations governing the procedures to be followed in making a determination as to whether the change or modification impairs accuracy or efficiency.
- 12) Permits the SOS to seek injunctive and administrative relief if a RAVBM system has been compromised by the addition or deletion of hardware, software, or firmware without prior approval or is defective due to a known hardware, software, or firmware defect, fault, or failure that has not been disclosed, as specified.
- 13) Prohibits a RAVBM system or part of a RAVBM system from doing any of the following:
- a) Have the capability, including an optional capability, to use a remote server to mark a voter's selections transmitted to the server from the voter's computer via the internet.
  - b) Have the capability, including an optional capability, to store any voter identifiable selections on any remote server.
  - c) Have the capability, including the optional capability, to tabulate votes.
- 14) Requires the SOS to establish a Voting Accessibility Advisory Committee (VAAC). Requires the SOS to consult with the VAAC and consider the VAAC's recommendations related to improving the accessibility of elections for voters with

disabilities. Permits the SOS to implement the committee's recommendations as the SOS deems appropriate.

- 15) Requires the VAAC to consist of the SOS, or designees of the SOS, and additional members appointed by the SOS. Requires the appointees to have demonstrated experience with accessibility requirements for voters with disabilities or be a county elections official.
- 16) Requires the VAAC to serve in an advisory capacity to the SOS and to do all of the following:
  - a) Establish guidelines for reaching as many voters with disabilities as practical.
  - b) Make recommendations for improving the availability and accessibility of election materials, including, but not limited to, state voter information guides, county voter information guides, and VBM ballots, and their delivery in print or alternative formats to voters with disabilities.
  - c) Increase the distribution of public service announcements identifying the availability of election materials for voters with disabilities at least 45 days before any federal, state, and local election.
  - d) Make recommendations for improving the accessibility of election materials made available on internet websites that are in compliance with the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessibility Guidelines 2.0 adopted by the World Wide Web Consortium for accessibility.
  - e) Promote the SOS's toll-free voter registration telephone line for citizens needing voter registration information, including information for individuals with disabilities, and the California State Library and regional library services for individuals who are unable to read conventional print due to a visual, intellectual, learning, physical, or any other disability.
  - f) Make recommendations for providing voters with disabilities the same access and participation as is provided to other voters who are not disabled, including the ability to vote privately and independently.
  - g) Establish subcommittees to further the scope and purposes of the committee as they relate to improving voter services and access for individuals with disabilities, including, but not limited to, visually impaired voters and deaf or hard of hearing voters.
  - h) Promote the use of plain language and alternative formats for election materials.
  - i) Make recommendations for materials to train poll workers on issues related to serving voters with disabilities and providing accessible voting locations.
- 17) Establishes the Office of Elections Cybersecurity and requires the office to, among other duties, coordinate with federal, state, and local agencies the sharing of

information on threats to election cybersecurity, risk assessment, and threat mitigation in a timely manner and in a manner that protects sensitive information.

This bill:

- 1) Permits the SOS to do any of the following:
  - a) Certify a RAVBM system that allows a voter with a qualifying disability to return a ballot by electronic means and in a private and independent manner.
  - b) Develop procedures for a voter with a qualifying disability to submit a signature electronically, including procedures to correct or submit an absent signature, for signature comparison, as specified.
- 2) Requires, upon certification of a RAVBM system that allows a voter with a qualifying disability to return a ballot by electronic means and in a private and independent manner, the county elections official to permit a voter with a qualifying disability to use a certified RAVBM system that enables the voter to return a ballot by electronic means and in a private and independent manner. Provides that if a RAVBM system is not available for use in the voter's county, the voter may return a copy of a complete RAVBM ballot by fax, as specified.
- 3) Defines "qualifying disability" to mean a disability that prevents a voter from reading, marking, holding, handling, or manipulating a ballot, including blindness, visual impairment, an intellectual or developmental disability, or impairment in dexterity, such that the voter is unable to return a ballot privately and independently.
- 4) Makes corresponding and conforming changes.

### **BACKGROUND**

Voters with Disabilities. According to information provided on the Americans with Disabilities Act's website, state and local governments are required to ensure that people with disabilities have a full and equal opportunity to vote. This 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.

In February 2021, the Election Assistance Commission (EAC) commissioned Rutgers University and released a comprehensive national report about disability and voting accessibility in the 2020 election. The report sought to identify gaps and advancements in accessibility for voters with disabilities. The report found that voting difficulties among people with disabilities declined from 2012 to 2020. However, about one in nine voters with disabilities encountered difficulties while voting in 2020 and was double the rate of people without disabilities. When voting by mail, 5% of voters with disabilities had difficulties using a mail ballot (compared to 2% of voters without disabilities).

In another report released in July 2021, Rutgers University found 17.7 million people with disabilities reported voting in the November 2020 election. However, when combined with the EAC report, an estimated 1.95 million people with disabilities had at least some difficulty or trouble voting in the November 2020 election. This was still a

significant improvement when compared to previous elections. Finally, this report noted, that if people with disabilities voted at the same rate as people without disabilities who have the same demographic characteristics, there would be approximately 1.75 million additional voters.

Ballot Submission by Fax. Pursuant to existing law, a military or overseas voter 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. When voting abroad, the Federal Voting Assistance Program (FVAP) provides assistance for service members, their families, and overseas citizens in voting in elections. As part of the program, the Department of Defense Fax Service is available for those voters who cannot send their election materials directly to their election officials. A voter would need to use the FVAP Transmission Cover Sheet and fax the proper election materials to a specific number. If a voter needs to send election materials via fax to the elections official and *does not* have access to a fax machine, the voter can email the election materials to a specific address ([fax@fvap.gov](mailto:fax@fvap.gov)) and FVAP will fax the voter's election materials for the voter. This service is only available for fax transmission.

RAVBM Systems. According the SOS, a RAVBM system allows voters to mark their selections using their own compatible technology to vote independently and privately in the comfort of their own home. To use a RAVBM system, a voter must download the application, mark their selections, print their selections, sign the envelope (using the envelope provided with the ballot or the voter's own envelope), and return the printed and signed selections either by mail or by dropping it off at a voting location. It should be noted that, pursuant to existing law, these selections cannot be returned electronically.

Certification of a RAVBM System. Existing law requires a RAVBM system, in whole or in part, be certified or conditionally approved by the SOS prior to the election at which it is to be first used. According to the SOS's website, the certification process takes place in four phases: application phase, pre-testing application phase, testing phase, and the report issuance and post-test activities phase.

During the application phase, the applicant must complete and submit the application. The application and technical documentation are reviewed for completeness by the SOS Office of Voting Systems Technology Assessment (OVSTA). If the application is incomplete, then OVSTA staff notifies the applicant in writing of the application deficiencies and works with the applicant to resolve the deficiencies. If the application is deemed completed, then OVSTA begins coordinating the test certification process. Additionally, there is not an application fee when the application is submitted, but an escrow account is required to cover the costs associated with testing since the applicant is responsible for all costs associated with the testing and examination of the RAVBM system.

The second phase is the pre-testing activities phase. OVSTA staff will develop a preliminary test schedule with the applicant because each system is different and an estimated timeline for an applicant's certification process can vary. Then, OVSTA staff drafts a Statement of Work (SOW) for the state testing authority outlining all deliverables, acceptance criteria, and test laboratory qualifications. Following this step,

an estimated amount to cover the payment of all testing and certification related expenses is provided to the applicant. The escrow account opens to hold and distribute the funds. Then, the applicant is required to provide all hardware and software needed to perform testing (i.e. the voting system). This leads to the development of a Non-Disclosure Agreement (NDA) between the SOS, the applicant, and test laboratory staff. Once the NDA is signed, the SOW along with a standard State of California Request for Proposal package is placed out for bid using California's current bid process procedures to procure a state approved testing authority, proposal are reviewed, and a contract is awarded. Following the bid process, the SOS works with the applicant and the state approved testing authority to develop a test plan that also includes an updated test schedule.

The third phase is a testing phase. This includes functional, usability, accessibility, privacy, hardware, software, telecommunication, and security testing. There is also quality assurance and configuration management where the documentation submitted by the applicant is reviewed for its completeness and accuracy in describing the system, its conformance to the requirements for the manufacturer configuration, and quality assurance practices.

Finally, the fourth phase is the report issuance and post-test activities phase. This is where the SOS and the state approved testing authority issues final reports, a public hearing is held at the SOS's office in Sacramento, and the SOS makes a final determination on certification based on the findings during testing and public comment.

Executive Order. On March 7, 2021, President Biden issued Executive Order (EO) 14019. This EO focused on access to voting and, among other voting access issues, acknowledged that "people with disabilities continue to face barriers to voting and are denied legally required accommodations in exercising their fundamental rights and the ability to vote privately and independently." As a result, the EO required the National Institute of Standards and Technology (NIST), in consultation with the Department of Justice, the EAC, and other agencies, as appropriate, to analyze barriers to private and independent voting for people with disabilities. This included access to voter registration, voting technology, voting by mail, polling location, and poll worker training.

NIST Report. Following President Biden's EO, NIST published a report in March of 2022 with recommendations for addressing barriers to private and independent voting for people with disabilities. The report identified the following five systemic barriers to privately and independently voting that voters with disabilities face throughout the voting process:

- 1) Inconsistent implementation of laws, regulations, and guidelines addressing accessibility for voters.
- 2) Gaps in accessible communication and information.
- 3) Inaccessibility of paper, especially for voters with print disabilities.
- 4) Limitations of current voting technology in prioritizing accessibility.
- 5) Situational challenges that create extra obstacles throughout the voting process.

The report also had the following five recommendations to address the previously mentioned systemic barriers:

- 1) Create guidance to support compliance with laws, regulations, and guidelines for improving voter access.
- 2) Improve dissemination, outreach, and accessibility of voting information.
- 3) Provide options for accessible voting.
- 4) Integrate the disability community into all aspects of voting.
- 5) Conduct research and development to improve efficiency and effectiveness of accessible voting.

Additionally, the report also discussed barriers to VBM voting. The report makes a distinction that RAVBM and electronic ballot return are different because RAVBM requires a paper ballot to be returned. That said, some voters with disabilities encounter barriers with reading, marking, verifying, and returning a paper ballot when voting by mail. Another barrier, especially for voters with print disabilities is that accessible options for electronic blank ballot delivery, marking, verification, signing, and return are limited for voters with disabilities. The research also suggests that voters with disabilities are more likely to have their ballots rejected.

One of the recommendations to help remove the barrier to VBM voting for voters with disabilities is to continue research on accessible methods for verifying, signing, and returning the ballot. There is also an acknowledgement that:

- 1) Electronic ballot return methods could address barriers voters with print disabilities experience in verifying, signing, and returning a ballot independently and privately. However, more research and standards are needed to address the challenges with equally supporting accessibility, security, privacy, and ballot secrecy within elections.
- 2) Research is needed into viable alternative identity verification methods that could be used in place of a wet signature because some voters with print disabilities may be unable to provide a consistent wet signature or provide a wet signature at all.

Bipartisan Policy Center Report. In March of 2022, the Bipartisan Policy Center Task Force on Elections (task force) published a report titled, “Balancing Security, Access, and Privacy in Electronic Ballot Return.” The task force included 26 state and local election officials from 18 states who are devoted to making improvements in election in the United States. The report acknowledged that “despite the vulnerabilities, electronic ballot transmission is crucial in ensuring that citizens unable to vote through traditional voting methods (such as mail or in-person voting) can still cast a ballot.” The task force provided the following 11 recommendations for local, state, and federal election officials to consider:

- 1) States should equip election offices with ample resources to support the additional training and staff needed to carry out electronic ballot transmission.
- 2) States should provide an online mail ballot request portal that is accessible to all voters.
- 3) States should expand electronic ballot delivery and ballot marking options to voters with disabilities. Additionally, states should continue to explore secure options for electronic ballot return for voters with disabilities and implement as feasible.



- 4) To ensure that only voters with disabilities that interfere with the reading, writing, or use of printed material are able to use electronic ballot transmission tools, states should provide a self-attestation tool that gives voters the option to attest under penalty of the law that they meet the criteria for electronic ballot transmission.
- 5) States should provide robust ballot tracking option, as well as options to fix ballots' eligibility deficiencies, to all voters using mail or electronic ballot return.
- 6) States should provide local election officials with detailed guidance about the types of electronic ballot transmission that are permitted.
- 7) States should follow federal agency guidance on how to mitigate the security risks of electronic ballot transmission.
- 8) States should conduct regular risk assessments, implement fraud detection and recovery protections, and require regular performance audits of electronic ballot transmission practices. The original electronically transmitted ballot should be retained as the ballot on record for tabulation audits and recounts.
- 9) The EAC should consider implementing a certification program for electronic return and ballot marking technology.
- 10) Election officials should educate voters about risks and mitigation tactics pertaining to electronic ballot transmission.
- 11) Election officials should work with local and national disability organizations to disseminate voting access and security information to voters in a targeted fashion.

Other States. According to the National Conference of State Legislatures (NCSL), as of September of 2019, at least 31 states and the District of Colombia permit a voter to submit their ballot electronically. This can include ballot submitted via fax, email, or web portal and is typically only used for military and overseas voters and/or voters with disabilities. In addition to the District of Colombia, these states include Alaska, Arizona, California, Colorado, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Utah, Washington, and West Virginia.

Of the 31 states and the District of Colombia, the following states permit some form of electronic transmission for voters with disabilities: Hawaii (for all permanent absentee voters who do not receive a mailed ballot within five days of the election), Louisiana, and Utah.

It should be noted that this is data and information from 2019 and changes to a state's law may have occurred between 2019 and the present.

West Virginia. Since the publishing of the NCSL data, West Virginia amended its law in 2020 to permit certain eligible absentee voters living with a physical disability to receive and return an absentee ballot electronically using a web portal, and to vote independently using an electronic ballot marking tool. The web portal is accessible to voters living with blindness and visual impairments.

According to the West Virginia Secretary of State's website, the electronic ballot delivery and marking tool is hosted by a third party vendor that provides voters secure technology to deliver and mark absentee ballots electronically. The web portal is hosted

in a government-approved Amazon AWS cloud, which has FedRamp certification. The web portal also utilizes AWS “Object Lock” to ensure that ballots stored in the AWS cloud are secure, immutable and unchangeable and meets all NIST and federal requirements for secure online storage of critical agency data.

North Carolina. In 2020, the United States District Court for the Eastern District of North Carolina ordered the North Carolina Board of Elections to make their electronic return accessible to voters with disabilities (*Taliaferro v North Carolina State Board of Elections*; civil case number 5:20-cv-411-BO). This lawsuit was based on the concept that North Carolina was excluding voters with disabilities from an accessible voting system that existed for another group of voters (i.e. military and overseas voters). As a result, municipal elections in 2021 needed to ensure that blind voters can request, mark, and return their absentee ballot through accessible electronic means.

In a post-election report following the judge’s ruling in *Taliaferro v North Carolina State Board of Elections*, in the November 2021 municipal elections, 30 voters requested accessible electronic ballots. Among those, 21 voters were sent a ballot through their portal. The remaining nine voters submitted invalid ballot requests and were not sent a ballot. Of the 21 voters, four voters submitted their ballots through the portal, five voters chose to vote in person, three voters chose to vote by mail, and nine voters did not return their ballot.

King Conservation District. The King Conversation District in King County, Washington conducts elections that primarily rely on electronic ballot access, with alternative options for printing and mailing in ballots. King County Elections (KCE) tabulates all ballots and report all results.

According to information provided on the King Conversation District’s website, the electronic ballot access system uses Democracy Live’s OmniBallot for delivering and returning ballots through a secure online portal, hosted by Amazon’s secure cloud, AWS. Ballots are counted and tabulated on paper. Since OmniBallot is a paper-based electronic document transmission tool, at the end of the voting process, a paper ballot is downloaded by the elections administrator, printed for tabulation, and is available for a hand recount if necessary.

Additionally, voters using OmniBallot log into OmniBallot portal via any smart device, or computer to access, mark and return their ballot. Voters mark their ballot on their device and are offered a choice to print and mail, or electronically return their ballot. If a voter chooses to electronically return their ballot, they are prompted to credential themselves and sign their name on their smart device touch pad. The signature and ballot is then downloaded from the secure portal by the elections authority for signature review. If the signature is approved, the ballot is printed and tabulated in the same conventional manner as current tabulation.

Following a March 2020 election, the National Cybersecurity Center published an audit to assess the overall integrity level of the King Conversation District election conducted in February 2020. The audit concluded that “King County Elections and Democracy Live have demonstrated proven, effective security measures to ensure that ballots have not been compromised or tampered with. The portal security systems are constantly monitored for any unintended or nefarious interference. The processes and

transparency of both the solution and procedural systems at KCE supports the conclusion that the pilot was successfully conducted without malicious or unintended interference, and with the accuracy expected in the conduct of elections.”

Security Concerns. In 2020, the NIST, the EAC, the Federal Bureau of Investigation, the Cybersecurity and Infrastructure Security Agency assessed the risks involved for electronic ballot delivery, marking, and return. The report recommended “paper ballot return as electronic ballot return technologies are high-risk even with controls in place.” However, the report also recognized “that some election officials are mandated by state law to employ this high-risk process, its use should be limited to voters who have no other means to return their ballot and have it counted.”

Additionally, this report also indicated that the risk is high for an unauthorized individual to participate in a voting channel for fax, email, and the web. For the fax, email, and web-based portals, the report makes the following comments as it relates to the security concerns and risk factors:

- Fax:
  - Fax machines are often used by local election offices and voters.
  - While this may be a convenient tool for distributing or receiving ballots, policymakers should be aware of the risks and challenges associated with fax.
  - Fax has no security protections unless sent over a secured phone line and is generally not considered suitable for sensitive communications.
  - Faxes may be viewed or intercepted by malicious actors with access to phone lines.
  - Multipurpose fax machines with networked communications capability can be leveraged by cyber actors to compromise other machines on the network.
- Email:
  - While this may be a convenient tool for distributing or receiving ballots, policymakers and election officials should be aware of the risks and challenges associated with email.
  - Email provides limited security protections and is generally not considered suitable for sensitive communications.
  - Email may be viewed or tampered with at multiple places in the transmission process, and emails can also be forged to appear as if they were sent from a different address.
  - Email is often used in cyberattacks on organizations, such as attackers sending messages with malicious links or attachments to infect computers with malware and could spread to other machines on the network if strong network segmentation techniques are not used.
- Web-based portals:
  - While web applications support stronger security mechanisms than email, they are still vulnerable to cyberattacks.
  - Software vulnerabilities in web applications could allow attackers to modify, read, or delete sensitive information, or to gain access to other systems in the elections infrastructure.

- Sites that receive public input, such as web forms or uploaded files, may be particularly vulnerable to such attacks and should be used only after careful consideration of the risks, mitigations, and security/software engineering practices that went into that software.

Voting Accessibility Advisory Committee. In 2015, the Legislature passed and Governor Brown signed AB 683 (Low), Chapter 334, Statutes of 2015. AB 683 required the SOS to establish a VAAC and required the SOS to consult with, and consider the VAAC's recommendations related to improving the accessibility of elections for voters with disabilities and meets periodically throughout the year. The VAAC serves in an advisory capacity to the SOS and is required do all of the following:

- 1) Establish guidelines for reaching as many voters with disabilities as practical.
- 2) Make recommendations for improving the availability and accessibility of election materials, including, but not limited to, state voter information guides, county voter information guides, and VBM ballots, and their delivery in print or alternative formats to voters with disabilities.
- 3) Increase the distribution of public service announcements identifying the availability of election materials for voters with disabilities at least 45 days before any federal, state, and local election.
- 4) Make recommendations for improving the accessibility of election materials made available on internet websites that are in compliance with the most current, ratified standards under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), as amended, and the Web Content Accessibility Guidelines 2.0 adopted by the World Wide Web Consortium for accessibility.
- 5) Promote the SOS's toll-free voter registration telephone line for citizens needing voter registration information, including information for individuals with disabilities, and the California State Library and regional library services for individuals who are unable to read conventional print due to a visual, intellectual, learning, physical, or any other disability.
- 6) Make recommendations for providing voters with disabilities the same access and participation as is provided to other voters who are not disabled, including the ability to vote privately and independently.
- 7) Establish subcommittees to further the scope and purposes of the committee as they relate to improving voter services and access for individuals with disabilities, including, but not limited to, visually impaired voters and deaf or hard of hearing voters.
- 8) Promote the use of plain language and alternative formats for election materials.
- 9) Make recommendations for materials to train poll workers on issues related to serving voters with disabilities and providing accessible voting locations.

### **COMMENTS**

- 1) According to the author: SB 1480 permits the SOS to certify a RAVBM system that provides an option for some voters with a qualifying disability to electronically return their ballot. While RAVBM has improved voting at home for many voters with disabilities, it is still impossible for some voters with visual and dexterity impairments to vote privately and independently using a RAVBM system. In particular, when printing a marked ballot, handling and manipulating the printed paper, signing and sealing the return envelope, and returning that envelope to

the county elections office. For example, a voter who is blind using a RAVBM system would not have a private and independent voting experience because someone would need to help them with printing the ballot and completing the envelope requirements. Each of these steps presents challenges that force voters with some disabilities to seek third party assistance and hence prevents an individual to cast a private and independent vote. While the voter is able to read and mark the ballot privately and independently, they are unable to verify the printed ballot, put the printed ballot in the envelope and sign the envelope privately and independently.

Upon certification of an electronic ballot return option, a county would be required to permit a voter with a qualifying disability to use that RAVBM system. If a system is not available for use in a voter's county, a voter with a qualifying disability would be able to return a ballot via fax.

- 2) Finding a Balance. There are three main factors involved when examining voting systems that support an electronic return for voters with disabilities: access, privacy, and security. First, 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. Second, if a voter is unable to vote privately and independently, a voter's choices are not secret and likely requires assistance from another person. Third, if a 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. All three factors have positive and negative attributes. They should be weighed appropriately when attempting to find an ideal balance to ensure that a voter has an equal access to vote and the ability to cast a vote privately using a secure voting system.

- 3) Argument in Support. In a letter supporting SB 1480, Disability Rights California states, in part, the following:

*There are security risks with every election system, but we must balance security with accessibility. Many people passionate about election security are focused on security above all other considerations. Admittedly, the negatives of "Internet voting" for all voters due to hacking risks and relying on unproven technology likely still outweigh the positives. But SB 1480 is different in numerous ways that greatly minimize risks and improve accessibility. SB 1480 is a targeted approach using existing technology. Voters with print disabilities are a small pool of voters. This minimizes the risk of a "honey pot" of voters that is appealing to hackers. This small pool of voters is distributed amongst California's vast electorate.*

- 4) Argument in Opposition. In a coalition letter opposing SB 1480, the 36 signatories states, in part, the following:

*[T]he the electronic return of voted ballots, either by facsimile or electronic ballot return system, creates profound, dangerous, and currently unsolvable security vulnerabilities, and is unacceptably insecure. There is*

*no technology currently available or expected in the foreseeable future that can adequately secure elections when ballots are faxed/electronically transmitted over the Internet.*

*At a time when election security and public confidence in our elections are under attack, increased electronic return of voted ballots, whether from a phone, tablet, or computer, is simply not safe or secure in any form. Furthermore, with the ongoing conflict in Ukraine, the threat of Russian cyber attacks on our election infrastructure has increased. Election security is a matter of the highest U.S. national security, so we would be taking a very grave risk to our democracy any time the threat of foreign interference is escalated, as it is now.*

### **RELATED/PRIOR LEGISLATION**

AB 37 (Berman), Chapter 312, Statutes of 2021, among other provisions, permitted any voter to cast a ballot using a certified RAVBM system.

SB 503 (Becker), Chapter 319, Statutes of 2021, provided additional parameters for elections officials when comparing a voter's signature on a VBM ballot envelope and procedures for missing signatures on a VBM ballot envelope, as specified.

AB 3075 (Berman), Chapter 241, Statutes of 2018, created the Office of Elections Cybersecurity and required the office to, among other duties, coordinate with federal, state, and local agencies the sharing of information on threats to election cybersecurity, risk assessment, and threat mitigation in a timely manner and in a manner that protects sensitive information.

AB 2252 (Ting), Chapter 75, Statutes of 2016, among other provisions, established the framework whereby a voter with disabilities would be able to electronically receive and mark his or her VBM ballot using a RAVBM system, as specified.

AB 683 (Low), Chapter 334, Statutes of 2015, among other provisions, required the SOS to establish a VAAC and required the SOS to consult with, and consider the VAAC's recommendations related to improving the accessibility of elections for voters with disabilities.

### **POSITIONS**

**Sponsor:** Author

**Support:** Association of Regional Center Agencies  
California Council of the Blind  
California Environmental Voters  
Democracy Live  
Disability Rights California  
Microsoft  
National Association of Social Workers, California Chapter  
Resources for Independence Central Valley

Four individuals

**Oppose:** Audit USA  
Brennan Center for Justice  
California Voter Foundation  
Clean Coalition  
Cloverdale Indivisible  
Coalition for Good Governance  
Election Integrity Foundation  
Electronic Frontier Foundation  
Free Speech for People  
Indivisible Alta Pasadena  
Indivisible CA-33  
Indivisible Marin  
Indivisible Media City Burbank  
Indivisible Mendocino  
Indivisible Resistance San Diego  
Indivisible Riverside  
Indivisible Ross Valley  
Indivisible Sacramento  
Indivisible San Jose  
Indivisible Sonoma County  
Indivisible South Bay LA  
Indivisible Stanislaus  
Livermore Indivisible  
Long Beach Alliance for Clean Energy  
Money Out Voters In  
National Voting Rights Task Force  
PDA-CA, State Pac of Progressive Democrats of America,  
Oakland Chapter  
Progressive Democrats of Santa Monica Mountains  
Public Citizen, Inc.  
Resistance Northridge-Indivisible  
Rooted in Resistance  
Scrutineers  
Secure Elections Network  
SoCal 350  
Stand Strong LA Indivisible  
Validate the Vote USA  
Valley Women's Club of San Lorenzo Valley  
Verified Voting  
One Individual

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