

HOUSE BILL REPORT

ESB 5738

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to administering elections by mail.

Brief Description: Modifying absentee ballot and related election provisions.

Sponsors: Senators Oemig and Swecker; by request of Secretary of State.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 3/21/07, 3/30/07 [DPA].

Brief Summary of Engrossed Bill
(As Amended by House Committee)

- Allows a mail voter to vote a regular ballot at a poll site upon confirmation that the voter has not yet voted.
- Requires that mismatched signatures be cured by providing a photocopy of identification or by providing the attestation of a witness with the return of the affidavit.
- Requires that a ballot may not be linked to a voter through a bar code, symbol, or other method.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass as amended. Signed by 6 members: Representatives Hunt, Chair; Appleton, Vice Chair; Green, McDermott, Miloscia and Ormsby.

Minority Report: Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member and Kretz.

Staff: Marsha Reilly (786-7135).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Processing Mail Ballots

Opening and processing of mail ballots may begin upon receipt of the ballot. Before opening the ballot, election personnel must verify that the voter's signature on the return envelope is the same as the signature of the voter in the registration files of the county. Once the signature on the ballot envelope has been verified, the voter is credited with voting and the outer ballot envelope is removed. Ballots that are tabulated on electronic vote tallying systems may be removed from the inner envelopes and prepared for tabulation. After opening the envelopes, all ballots are placed in secure storage until after 8:00 p.m. on the day of the primary or election.

Provisional Ballots

The Help America Vote Act (HAVA) requires that under certain circumstances, voters may be issued and vote a provisional ballot. Provisional ballots may be counted only if election officials can confirm that the voter is registered, is entitled to vote, and has not already voted. The HAVA also requires that every polling site have disability access voting equipment.

In 2005, legislation was enacted allowing counties to conduct elections entirely by mail. Counties that adopt mail voting must also make available disability access voting equipment. A voter who has requested an absentee ballot but chooses to vote at a polling site may be issued and may vote a provisional ballot. The provisional ballot may only be counted if election officials confirm that the absentee ballot was not returned. Most disability access voting equipment does not allow for provisional voting.

Verification of Mail Ballot Signatures

The county auditor must notify a voter by first-class mail in the event that the voter fails to sign the outside envelope of the absentee or provisional ballot, or if the voter's signature does not match the signature on file in the voter's registration file. To correct a missing signature, the voter must: (1) appear in person and sign the envelope; or (2) sign and return a copy of the envelope provided by the auditor.

If the signature on the ballot envelope does not match the signature on file, the voter must: (1) appear in person and sign a new registration form; or (2) return a signed affidavit provided by the county auditor. The voter has the option to enclose with the affidavit a photocopy of a valid government or tribal issued identification document that includes the voter's current signature.

If the signature on the copy of the affidavit does not match the signature on file or the signature on the copy of the identification document, the voter is required to appear in person and sign a new voter registration form before certification of the election in order for the ballot to be counted.

Ballot Contents

Ballots must be uniform within a precinct and must identify the type and date of the election, the county, and instructions on the proper method of recording a vote. The positions and candidates on the ballot must be clearly separated. Ballots may not be marked in any way that would identify the person who voted the ballot.

Summary of Amended Bill:

Processing Mail Ballots

The time designation of 8:00 p.m. on election day is removed for purposes of storing absentee ballots.

Provisional Ballots

An absentee or mail voter who requests to vote at a poll site may vote a regular ballot if the election worker can confirm that the voter has not already returned a ballot. If the election worker can confirm that the absentee or mail ballot has not been returned, the voter must immediately be credited with voting.

Verification of Mail Ballot Signatures

Changes are made to allow for one witness, instead of two, to attest to signatures. The same provisions for correcting a missing signature are applied to include persons who sign the oath with a mark and fail to have the signature witnessed.

Clarification is made that when a voter cures a mismatched signature by appearing in person and signing a new registration record, the new registration form becomes the official record for the current and future elections.

Provisions for curing a mismatched signature by signing and returning an affidavit are as follows:

- The voter must provide a photocopy of the allowed identification documents. In order for the vote to be counted, the signature on the affidavit, the ballot envelope, and the identification must match.
- The voter may sign a copy of the affidavit in front of a witness who is at least 18 years of age who can attest to the signature. The signature on the affidavit must match the signature on the ballot envelope.

Ballot Contents

Clarification is added that a ballot may not be coded using a bar code, unique number, symbol, or other method that would link or associate the ballot to a specific voter.

Amended Bill Compared to Original Bill:

The amended bill clarifies that a ballot may not be marked with a bar code, symbol, or other method that would link or associate the ballot to the voter. The number of witnesses needed to verify a person's mark or to verify a mismatched signature is changed from two witnesses who are registered voters, to one witness who is at least 18 years of age.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) A few provisions were removed from the bill. It was a concern that allowing overseas and service voters to submit their ballots electronically would open it up to fraudulent voting. Also, there is less auditing under the original bill and it is believed that there should actually be more auditing. The bill allows processing of ballots to begin prior to the 8:00 p.m. designation currently in statute. There are two recommended amendments. The first would allow curing of a mismatched signature by signing the affidavit in front of one witness rather than two, and that the witness does not need to be a registered voter. The second amendment would clarify existing statute by prohibiting the use of any type of numerical identifier that would link the ballot to the voter.

This is a Secretary of State request bill. It allows a person to vote at the polls using a regular ballot rather than a provisional ballot if it can be determined that the voter has not returned his or her mail ballot. This addresses the problem of allowing voters with disabilities to vote at a poll site and use the disability access voting equipment. Several changes have been made to the statute regarding the curing of mismatched signatures. Currently it is not clear if the signature on the affidavit must match the signature on file or the signature on the ballot. The bill provides that the affidavit signature must match the signature on the ballot and provides alternate means to verify the signature.

(Opposed) None.

Persons Testifying: Senator Oemig, prime sponsor; and Katie Blinn, Office of the Secretary of State.

Persons Signed In To Testify But Not Testifying: None.