September 17, 2018

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 18223

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
                    Chief, Elections Division

RE: General Election: Vote By Mail Ballots: Mismatched Signatures and
                    Senate Bill 759

On September 17, 2018, Governor Brown signed Senate Bill (SB) 759 (McGuire, Chapter 446 of the Statutes of 2018) as urgency legislation that shall go into effect immediately. This will affect the processing of vote-by-mail ballots issued in the November 6, 2018, General Election, if there is a signature mismatch.

SB 759 amends only Elections Code section 3019. It eliminates the prohibition on counting a vote-by-mail ballot if the signature on the identification envelope does not compare with either the signature appearing on the voter's affidavit of registration or the signature appearing on a form issued by an elections official that is part of the voter's registration record. SB 759 requires, among other things, the elections official to follow specified procedures to notify the voter and allow the voter an opportunity to verify (cure) his or her signature before certification of the election.
The prohibition on counting a vote-by-mail ballot if there was a signature mismatch has been removed from Section 3019, subdivision (c); that amended subdivision now provides as follows:

> (c) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines 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).

Amended Section 3019, subdivision (d) addresses the following:

- (d)(1) – the time period of the notification and the mismatched signature cure,
- (d)(2) – the actual notification and instructions to voters,

- (d)(3) – procedures and actions following the elections officials receipt of a timely cure,
- (d)(4) – the signature verification statement,
- (d)(5) – posting of the signature verification statement and instructions on the elections officials' Internet Web site, and
- (d)(6) – using the voter's signature from signature verification statement to update the voter's record, even if the signature verification statement was untimely.

SB 759's most significant amendments are contained in subdivisions (c) and (d) of Section 3019, as discussed above. For your convenience, attached is a courtesy sample of a Verification Signature Statement along with a courtesy sample of an Unsigned Ballot Statement; it is suggested to have a supply of each of these statements in the appropriate languages at your polling locations in the event a voter requests them.

To view the full text of SB 759 see the attachment to this CCROV or visit
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB759

If you have any questions, please feel free to contact me at Jana.Lean@sos.ca.gov.

Attachments
- Courtesy sample of a Verification Signature Statement
- Courtesy sample of an Unsigned Ballot Statement
- Text of SB 759

Courtesy sample of a Verification Signature Statement

READ THESE INSTRUCTIONS CAREFULLY.
FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. We have determined that the signature you provided on your vote-by-mail ballot envelope does not match 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 below where specified on the Signature Verification Statement (Voter's Signature).

4. Place the Signature Verification Statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have the completed Signature Verification Statement delivered to the elections official. Be sure there is sufficient postage if mailed 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 Signature Verification Statement by email or facsimile transmission to your local elections official using the information provided.

_____

SIGNATURE VERIFICATION STATEMENT

I, _____, am a registered voter of _____ County, State of California.

I declare under penalty of perjury that I requested 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

Courtesy sample of an Unsigned Ballot Statement

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 Unsigned Ballot Statement should be completed and returned as soon as possible so that it can reach the elections official of the county in which your precinct is located no later than 5 p.m. on the eighth day after the election.

2. You must sign your name below where specified on the Unsigned Ballot Statement (Voter's Signature).

3. Place the Unsigned Ballot Statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have the completed Unsigned Ballot Statement delivered to the elections official. Be sure there is sufficient postage if mailed and that the address of the elections official is correct.

4. If you do not wish to send the Unsigned Ballot Statement by mail or have it delivered, you may submit your completed Unsigned Ballot 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.

_____

UNSIGNED BALLOT STATEMENT

I, _____, am a registered voter of _____ County, State of California.

I declare under penalty of perjury that I requested 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.
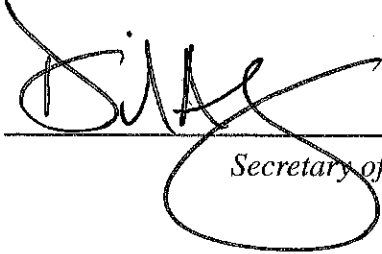
_____
Voter's Signature

_____
Address

Senate Bill No. 759

Passed the Senate August 28, 2018

_____

Secretary of the Senate

Passed the Assembly August 27, 2018

_____

Acting *Chief Clerk of the Assembly*

This bill was received by the Governor this ____5^th____ day

of __September__, 2018, at __3:30__ o'clock __P.__ M.

_____

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 3019 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 759, McGuire. Elections: vote by mail ballots.

Existing law requires an elections official, upon receipt of a vote by mail ballot, to compare the signature on the identification envelope with either the signature appearing on the voter's affidavit of registration, or 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. Existing law prohibits, if the elections official determines that the signatures do not compare, the elections official from opening the identification envelope and counting the ballot.

This bill would eliminate the prohibition on counting the ballot and would instead require the elections official to follow specified procedures to notify the voter and allow the voter an opportunity to verify his or her signature before certification of the election. The bill would also make technical, nonsubstantive changes to these provisions. By increasing the duties of local election officials, 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.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that the procedures in Section 3019 of the Elections Code apply only to signatures that do not compare because of a mismatched signature submitted by the voter himself or herself.

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) In comparing signatures pursuant to this section, the elections official may use facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

(3) 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 elections official shall visually examine the signatures and verify that the signatures do not compare.

(4) 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.

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

(c) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines 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 minimum of eight days prior to the certification of the election, the elections official shall provide notice to all voters identified pursuant to subdivision (c) of the opportunity to verify their signatures no later than 5 p.m. two 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 match 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 a mailing envelope addressed to your local elections official. Mail, deliver, or have the completed statement delivered to the elections official. Be sure there is sufficient postage if mailed 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 using the information provided."

(3) 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, he or she shall deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(ii) If upon conducting the comparison of the signatures the elections official determines 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.

(4) 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 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"

(5) An elections official shall include the vote by mail ballot signature verification statement and instructions provided in this subdivision on his or her Internet Web site, and shall provide the election official's mailing address, email address, and facsimile transmission number on the Internet Web page containing the statement and instructions.

(6) 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 before 5 p.m. on the eighth day after the election.

(ii) Before 5 p.m. on the eighth day after the election, completes and submits an unsigned ballot statement in substantially the following form:

<div align="center">"UNSIGNED BALLOT STATEMENT</div>

I,_____, am a registered voter of _____ County, State of California. I declare under penalty of perjury that I requested 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) 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, he or she shall attach the unsigned ballot statement to

the identification envelope and deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(ii) If the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted.

(C) 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 so that it can reach the elections official of the county in which your precinct is located no later than 5 p.m. on the eighth day after the election.
2. You must sign your name on the line above (Voter's Signature).
3. Place the statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have delivered the completed statement to the elections official. Be sure there is sufficient postage if mailed 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) An elections official shall include the unsigned ballot statement and instructions described in this subdivision on his or her Internet Web site, 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.

SEC. 3. 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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that votes cast in the November 6, 2018, statewide general election are properly counted, it is necessary that this bill take effect immediately.

Approved _____ SEP 1 7 _____, 2018

_____

Governor