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County Clerk/Registrar of Voter (CC/ROV) Memorandum # 22197

TO: All County Clerks/Registrar of Voters

FROM: /s/ Robbie Anderson  
Elections Counsel

RE: Vote by Mail: Signing of Assembly Bill 2608

On August 22, 2022, Governor Newsom signed [Assembly Bill 2608](#) (AB 2608, Chapter 161 of the Statutes of 2022) into law as an urgency bill.

The purpose of AB 2608 is to make conforming changes to the Elections Code now that each active registered voter receives a vote-by-mail ballot for each election.

A summary of the changes made by AB 2608 are as set forth below.

## **Vote-by-Mail Ballot Applications, Requests for Vote-by-Mail Ballots, Permanent Vote-by-Mail Voters**

Now that active registered voters receive vote-by-mail ballots for each election, voters no longer need to apply for or request vote-by-mail ballots. Additionally, elections officials are not required to provide a vote-by-mail ballot application in any fashion and are no longer required to track or flag voters who previously were considered to be permanent vote-by-mail voters.

## **Vote-by-Mail Ballot Identification Envelopes**

AB 2608 amends Elections Code section 3011 to modify what is to be included on the vote-by-mail ballot identification envelope. The previously required statement on the vote-by-mail ballot identification envelope that the voter had not applied or intended to apply for a vote-by-mail ballot in another jurisdiction has been modified to a statement that "the voter has neither voted nor intends to vote a ballot from any other jurisdiction for the same election."

In addition, the space on the vote-by-mail ballot identification envelope for the voter to insert the relationship of the individual returning their vote-by-mail ballot on their behalf is no longer required.

Counties may continue to use existing supplies prior to printing new identification envelopes that reflect changes made by AB 2608.

### **Requests for Replacement or Late Ballots**

AB 2608 combines Elections Code sections 3014 and 3021 to provide procedures for a voter to request a replacement ballot or a late ballot.

Under amended Section 3014, a second vote-by-mail ballot shall be provided to a voter upon receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or destroyed their original ballot.

Section 3014 now also provides that in the event a voter is unable to obtain a second vote-by-mail ballot on their own, they may appoint a representative to obtain that ballot. The voter is to complete a written request on a form prescribed by the Secretary of State, signed under penalty of perjury, requesting that a ballot be provided to their representative. The ballot shall not be provided until the elections official compares the signature on the written request with the signature(s) in the voter's registration record and the authorized representative signs an acknowledgement of receipt of the ballot.

These replacement ballots must be returned to the elections official pursuant to the procedures set forth in Elections Code section 3017, and will be processed and counted in the same manner as other vote-by-mail ballots.

### **Vote-by-Mail Ballot Drop-Off Location Determinations for Non-VCA Counties**

Elections Code section 3025.5(a)(1) has been amended to include a date by when elections officials who do not conduct elections utilizing vote centers must calculate the number of required drop-off locations for the upcoming election. These non-VCA counties must provide at least two vote-by-mail drop-off locations, or at least one drop-off location for every 30,000 registered voters within the jurisdiction where the election is held, as determined on the 88th day before the day of the election, whichever results in more vote by mail ballot drop-off locations.

The number and calculation of the drop-off locations has not changed – this amendment solely provides a date for the calculation to be made.

### **Military or Overseas Voter Oath**

The oath for a military or overseas voter provided in Elections Code section 3106 has been modified to remove the previously required statement that the voter had not

applied or intended to apply for a vote-by-mail ballot in another jurisdiction. The amended statement provides that the voter has “not voted, nor intends to vote, a ballot from any other jurisdiction for the same election.”

### **Mailing of County Voter Information Guide**

Elections Code section 13305 allows a county to elect to not mail a voter a county voter information guide if both of the following have been satisfied:

1. The county elections official prepares and mails to each voter a document that includes all of the information required to be included in, and shall be accompanied by all the election materials required to accompany, the county voter information guide, and
2. The voter is furnished with an official ballot pursuant to Elections Code section 3005 or 3010.

### **Notices to No Party Preference Voters and Requests for Party Ballots**

Elections Code section 13502 requires the elections official to send a notice to each no party preference voter a notice and application prior to each partisan election notifying them that they may request another party’s ballot for the primary election. This requirement is not new, but has been moved into this section.

In addition, Section 13502 has been amended to indicate that a voter may request the ballot of another party, using one of the following methods:

1. By telephone pursuant to all of the following procedures:
  - The voter shall 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.
  - Prior to being asked for personal identifying information, a voter requesting a party’s ballot pursuant to this section shall 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.”
  - A person shall not request a party’s ballot pursuant to this section using the name of, or on behalf of, another person.
2. On an application over the internet, if available.

3. By a written statement application submitted in person, or by mail, email, or facsimile transmission.

### **Retention of Vote-by-Mail Ballot Applications**

Elections Code sections 17504 and 17505 require elections officials to retain applications for vote-by-mail ballots for a specified time period. As all voters receive a vote-by-mail ballot, and no application is required, these sections will be repealed as of January 1, 2024.

If you have any questions, please contact Robbie Anderson at [aanderso@sos.ca.gov](mailto:aanderso@sos.ca.gov) or Rachelle Delucchi at [rdelucch@sos.ca.gov](mailto:rdelucch@sos.ca.gov).