California Secretary of State
Proposed Emergency Regulatory Action:
Conditional Voter Registration
Emergency Readopt

Finding of Emergency

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. (1 California Code of Regulations, Section 48.)

INFORMATIVE DIGEST AND STATEMENT OF EMERGENCY

These emergency regulations avoid serious harm to the public peace, health, safety, and general welfare by providing the elections officials with sufficient time to implement new legislation and ensure that the November 8, 2022, General Election is held in a uniform manner by California’s 58 county elections officials, and that the election is held in a safe and accessible manner.

On March 31, 2022, Senate Bill 504 (SB 504, Chapter 14 of the Statutes of 2022) became law. Amongst other things, SB 504 authorizes the Secretary of State to adopt emergency regulations to implement SB 504. The Legislature further found and declared that that the emergency regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare because the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

On August 26, 2022, the Secretary of State submitted the proposed regulations to the Office of Administrative Law to begin the “regular” rulemaking process. However, the regular regulations rulemaking process will not be complete before the emergency regulations are expired. Therefore, additional time is needed to keep the emergency regulations in effect until the regular rulemaking process is completed.

The proposed regulations provide a structure for county elections officials to allow qualified military and overseas voters and voters with disabilities to complete a conditional voter registration and cast a provisional ballot or nonprovisional ballot under the new provisions of California Elections Code section 2170 (Amended by SB 504).

Section 20021. Definitions. In subdivision (a), we are adding an acronym of “CVR” and adding a reference to the specific subdivision of the Elections Code section 2170.
In subdivision (b)(1)(B), we struck the requirement for an email address to be included on an affidavit of registration of a military or overseas voter or a voter with disabilities and otherwise modified the language for clarity.

In subdivision (b)(2)(B), we struck the requirement for an email request for access to a certified remote accessible vote by mail system to be from the same email address included on the voter’s affidavit of registration and modified the language for clarity.

Further in subdivision (b), we are adding a reference to the specific subdivision of Elections Code section 2170.

These changes are necessary to make it clear that conditional voter registration is available to military and overseas voters and voters with disabilities. The changes describe that these categories of voters are allowed to vote utilizing counties’ remote accessible vote by mail systems, and further defines “CVR ballots” as those cast using a certified remote accessible vote by mail system. These changes are necessary to conform with Senate Bill 504 (SB 504, Chapter 14 of the Statutes of 2022).

In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Section 20022. Affidavit of Registration.

The proposed amendments to this section remove the existing reference to online voter registration, and instead refers to the Secretary of State’s website. This change was necessary to provide clarity for where CVR voters may register. The term “online” is not necessarily specific, and this is a non-substantive change to existing regulations. In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Section 20023. Availability of Conditional Voter Registration; 14-Day Notice to Secretary of State.

In this section, we are adding clarifying language in subdivisions (a) and (b) of this section and further adding specific reference section 2170 of the Elections Code.

The proposed changes are necessary to align the current regulations with Section 2170 of the Elections Code as amended by SB 504. Specifically, the regulations now indicate that CVR is to be offered in person and through the internet website of the Secretary of State and that CVR ballots can be offered provisionally and non-provisionally. In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Section 20024. Conditional Voter Registration Provisional Ballot Return Envelope.
In this section, we are adding language to clarify that this section is referring to ballot return envelopes provided by county elections officials. The proposed changes to this section are necessary because a ballot cast using a remote accessible vote by mail system (RAVBM) must be returned to the appropriate elections official in an envelope. A CVR voter at a polling location must put their ballot in a CVR envelope as well, but this section clarifies that the CVR envelope for an RAVBM voter must also look different from all other ballot return envelopes (such as a vote-by-mail return envelope). In addition, we are also removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Section 20024.5. Conditional Voter Registration Ballot Cast Using a Remote Accessible Vote-by-Mail System.

This is a new section added to provide instruction to elections officials to indicate in their local elections management system (EMS) that a CVR ballot must be reviewed prior to being processed. This section is necessary to ensure that proper procedures are followed when an elections official provides a CVR ballot to a voter using a certified remote accessible vote by mail system. These ballots require additional steps prior to being processed.

Section 20025. Conditional Voter Registration Provisional Ballot Processing and Return Statuses. – We are removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Section 20026. Conditional Voter Registration Provisional Ballot Reason Codes. – We are adding a comma in subdivision (b). In addition, we are also removing repetitive sections from the Authority and Reference section. These are non-substantive changes.

Section 20027. Voter Participation History. We are removing repetitive sections from the Authority and Reference section. This is a non-substantive change.

Regulatory Compatibility

The Secretary of State has determined that these proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Secretary of State has concluded that these are the only regulations that concern the conditional voter registration in the state of California.

Local Mandate Determination

Mandate on local agencies or school districts: None

Estimate of Cost Savings

Cost savings to any state agency: None

Reimbursable cost to any local government agencies: None
Nondiscretionary cost or savings to local government agencies: None

Cost or savings in federal funding to the state: None

NECESSITY STATEMENT

These proposed regulations are necessary to ensure that voters, interested persons, and members of the public are fully aware of the process of a CVR voter using a remote accessible vote by mail system to register and cast a ballot. Further the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

AUTHORITY AND REFERENCE


DOCUMENTS RELIED UPON

Senate Bill 504 (Chapter 14 of the Statutes of 2022)

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB504