

AMENDED IN SENATE JUNE 18, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1436

Introduced by Assembly Member Feuer

(Coauthors: Assembly Members Alejo, Ammiano, Fong, Hill, Lara, Ma, Portantino, Solorio, ~~Wieckowski~~, and ~~Wieckowski~~, and Williams)

(Coauthors: Senators *De León*, Padilla, and Yee)

January 4, 2012

An act to amend Sections 2107, 14310, and 18001 of, and to add Article 4.5 (commencing with Section 2170) to Chapter 2 of Division 2 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, as amended, Feuer. Voter registration.

Existing law establishes procedures regarding the registration of voters. Under existing law, a person may not be registered to vote except by affidavit of registration, and a voter may not vote in an election unless his or her affidavit of registration is executed and received by the county elections official on or before the 15th day prior to the election. Existing law permits any registered voter to vote by a vote by mail ballot, and further permits any voter using a vote by mail ballot to vote the ballot at the office of the elections official beginning 29 days before the election. Existing law requires that the affidavit of registration

show facts necessary to establish the affiant as an elector, as specified, and provides that if the affiant has not been issued a current and valid driver's license or social security number, he or she shall be provided a unique identification number for voter registration purposes.

This bill would establish conditional voter registration, using an affidavit of registration, whereby a person would be permitted to register to vote after the 15th day prior to an election or on election day, and cast a provisional ballot to be counted if the conditional voter registration is deemed effective. This bill would provide that a conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the registrant has provided information that matches specified state or federal databases. The bill would provide that if the information provided by the registrant cannot be verified by matching the information to those specified state or federal databases and the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to the above-referenced provisions and the conditional voter registration shall be deemed effective. ~~If a conditional voter registration is not deemed effective pursuant to these new provisions, the elections official would be required to process the affidavit of registration as specified and, if the registrant meets all other eligibility requirements to vote, the registration would be deemed effective in forthcoming elections.~~

The bill would require the county elections official to offer conditional voter registration and provisional voting at its permanent offices, and would permit the official to offer this registration and voting at satellite offices on election day, in accordance with specified procedures. The bill would also require the county elections official to cancel, as specified, duplicate voter registrations that may arise due to conditional voter registration.

The above provisions of the bill would become operative ~~when on~~ *January 1 of the year following the year in which* the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002.

Existing law provides that upon conviction for a crime pertaining to an election for which no fine is prescribed, the court may impose, in addition to any prescribed imprisonment, a fine on the offender of not more than \$1,000 for a misdemeanor or \$10,000 for a felony.

This bill would increase the amount of that fine for a felony to \$25,000.

By creating new duties for local elections 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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 2107 of the Elections Code is amended
2 to read:

3 2107. (a) Except as provided in subdivision (b) and Article
4 4.5 (commencing with Section 2170), the county elections official
5 shall accept affidavits of registration at all times except during the
6 14 days immediately preceding any election, when registration
7 shall cease for that election as to electors residing in the territory
8 within which the election is held. Transfers of registration for an
9 election may be made from one precinct to another precinct in the
10 same county at any time registration is in progress in the precinct
11 to which the elector seeks to transfer.

12 (b) The county elections official shall accept an affidavit of
13 registration executed as part of a voter registration card in the
14 forthcoming election if the affidavit is executed on or before the
15 15th day prior to the election, and if any of the following apply:

16 (1) A mailed affidavit is postmarked on or before the 15th day
17 prior to the election and received by mail by the county elections
18 official before the close of the polls on election day.

19 (2) The affidavit is submitted to the Department of Motor
20 Vehicles or accepted by any other public agency designated as a
21 voter registration agency pursuant to the *federal* National Voter
22 Registration Act of 1993 (42 U.S.C. Sec. 1973gg) on or before the
23 15th day prior to the election.

(3) The affidavit is delivered to the county elections official by means other than those described in paragraphs (1) and (2) on or before the 15th day prior to the election.

SEC. 2. Article 4.5 (commencing with Section 2170) is added to Chapter 2 of Division 2 of the Elections Code, to read:

Article 4.5. Conditional Voter Registration

2170. (a) “Conditional voter registration” means a properly executed affidavit of registration, which is delivered by the registrant to a county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant’s eligibility to register, and validates the registrant’s information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the California Department of Motor Vehicles, ~~or other state government agency~~, or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with the following procedures:

1 (1) The elections official shall provide conditional voter
2 registration and provisional voting pursuant to this article at all
3 permanent offices of the county elections official in the county.

4 (2) The elections official shall advise registrants that a
5 conditional voter registration will be effective only if the registrant
6 is determined to be eligible to register to vote for the election *and*
7 *the information provided by the registrant on the registration*
8 *affidavit is verified* pursuant to subdivision (c).

9 (3) The elections official shall conduct the receipt and handling
10 of each conditional voter registration and offer and receive a
11 corresponding provisional ballot in a manner that protects the
12 secrecy of the ballot and allows the elections official to process
13 the registration, to determine the registrant's eligibility to register,
14 and to validate the registrant's information before counting or
15 rejecting the corresponding provisional ballot.

16 (4) After receiving a conditional voter registration, the elections
17 official shall process the registration, determine the registrant's
18 eligibility to register, and attempt to validate the information.

19 (5) If a conditional registration is deemed effective, the elections
20 official shall include the corresponding provisional ballot in the
21 official canvass.

22 ~~(6) If a conditional voter registration is not deemed effective~~
23 ~~pursuant to this article, the elections official shall process the~~
24 ~~affidavit of registration pursuant to Sections 2102 and 2107 and,~~
25 ~~provided that the registrant meets all other eligibility requirements~~
26 ~~to register to vote, the registration shall be deemed effective in~~
27 ~~forthcoming elections.~~

28 (e) The county elections official may offer conditional voter
29 registration and provisional voting pursuant to this article on
30 election day at satellite offices of the county elections office, in
31 accordance with the procedures specified in paragraphs (2) to ~~(6)~~
32 (5), inclusive, of subdivision (d).

33 2171. (a) A conditional voter registration accepted under this
34 article shall include the information required by Article 4
35 (commencing with Section 2150).

36 (b) A conditional voter registration accepted under this article
37 shall be processed in accordance with general voter registration
38 procedures provided in this chapter and established by regulations
39 adopted by the Secretary of State.

1 (c) A provisional ballot cast under this article shall be subject
2 to the requirements for provisional voting in Article 5 (commencing
3 with Section 14310) of Chapter 3 of Division 14.

4 2172. (a) The elections official shall cancel any duplicate voter
5 registrations that may exist as a result of a conditional registration
6 deemed effective and shall cancel the duplicate registrations in
7 accordance with Chapter 3 (commencing with Section 2200).

8 (b) If it appears that a registrant may have committed fraud
9 within the meaning of Section 18560, the elections official shall
10 immediately notify in writing both the district attorney and the
11 Secretary of State.

12 SEC. 3. Section 14310 of the Elections Code is amended to
13 read:

14 14310. (a) At all elections, a voter claiming to be properly
15 registered, but whose qualification or entitlement to vote cannot
16 be immediately established upon examination of the index of
17 registration for the precinct or upon examination of the records on
18 file with the county elections official, shall be entitled to vote a
19 provisional ballot as follows:

20 (1) An elections official shall advise the voter of the voter's
21 right to cast a provisional ballot.

22 (2) The voter shall be provided a provisional ballot, written
23 instructions regarding the process and procedures for casting the
24 ballot, and a written affirmation regarding the voter's registration
25 and eligibility to vote. The written instructions shall include the
26 information set forth in subdivisions (c) and (d).

27 (3) The voter shall be required to execute, in the presence of an
28 elections official, the written affirmation stating that the voter is
29 eligible to vote and registered in the county where the voter desires
30 to vote.

31 (b) Once voted, the voter's ballot shall be sealed in a provisional
32 ballot envelope, and the ballot in its envelope shall be deposited
33 in the ballot box. All provisional ballots voted shall remain sealed
34 in their envelopes for return to the elections official in accordance
35 with the elections official's instructions. The provisional ballot
36 envelopes specified in this subdivision shall be of a color different
37 than the color of, but printed substantially similar to, the envelopes
38 used for vote by mail ballots, and shall be completed in the same
39 manner as vote by mail envelopes.

1 (c) (1) During the official canvass, the elections official shall
2 examine the records with respect to all provisional ballots cast.
3 Using the procedures that apply to the comparison of signatures
4 on vote by mail ballots, the elections official shall compare the
5 signature on each provisional ballot envelope with the signature
6 on the voter's affidavit of registration. If the signatures do not
7 compare or the provisional ballot envelope is not signed, the ballot
8 shall be rejected. A variation of the signature caused by the
9 substitution of initials for the first or middle name, or both, shall
10 not invalidate the ballot.

11 (2) (A) Provisional ballots shall not be included in any
12 semiofficial or official canvass, except under one or more of the
13 following conditions:

14 (i) The elections official establishes prior to the completion of
15 the official canvass, from the records in his or her office, the
16 claimant's right to vote.

17 (ii) The provisional ballot has been cast and included in the
18 canvass pursuant to Article 4.5 (commencing with Section 2170)
19 of Chapter 2 of Division 2.

20 (iii) Upon the order of a superior court in the county of the
21 voter's residence.

22 (B) A voter may seek the court order specified in this paragraph
23 regarding his or her own ballot at any time prior to completion of
24 the official canvass. Any judicial action or appeal shall have
25 priority over all other civil matters. No fee shall be charged to the
26 claimant by the clerk of the court for services rendered in an action
27 under this section.

28 (3) The provisional ballot of a voter who is otherwise entitled
29 to vote shall not be rejected because the voter did not cast his or
30 her ballot in the precinct to which he or she was assigned by the
31 elections official.

32 (A) If the ballot cast by the voter contains the same candidates
33 and measures on which the voter would have been entitled to vote
34 in his or her assigned precinct, the elections official shall count
35 the votes for the entire ballot.

36 (B) If the ballot cast by the voter contains candidates or
37 measures on which the voter would not have been entitled to vote
38 in his or her assigned precinct, the elections official shall count
39 only the votes for the candidates and measures on which the voter
40 was entitled to vote in his or her assigned precinct.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any vote by mail voter described by Section 3015 who is unable to surrender his or her unvoted vote by mail voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 4. Section 18001 of the Elections Code is amended to read:

18001. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars (\$1,000) in cases of misdemeanors or up to twenty-five thousand dollars (\$25,000) in cases of felonies, in addition to the imprisonment prescribed.

SEC. 5. 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. 6. Sections 1 to 3, inclusive, of this bill shall become operative ~~only if~~ *on January 1 of the year following the year in which* the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).