Assembly Bill No. 681

Passed the Assembly  September 13, 2019

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Chief Clerk of the Assembly

Passed the Senate  September 10, 2019

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Secretary of the Senate

This bill was received by the Governor this _____ day of ________________, 2019, at ____ o’clock ____м.

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Private Secretary of the Governor
CHAPTER ________

An act to amend Sections 2152, 3203, 3205, 4100, 13102, 13502, and 18402 of, to add Sections 2119.5, 12100, and 13503 to, to add Chapter 0.5 (commencing with Section 3000) to Division 3 of, and to repeal Section 3000 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST


Existing law requires a voter to disclose a preference for a political party in order to participate in the political party’s primary election. However, existing law permits a voter who has declined to disclose a political party preference to request the ballot of a political party at a partisan primary election if the political party authorizes a voter who has declined to disclose a political party preference to vote the ballot of the political party at that partisan election. Existing law requires that information to be included in the voter registration card, the vote by mail ballot application, the state and county voter information guides, the internet websites of the Secretary of State and the county elections officials, and the nonpartisan vote by mail ballot that is sent to a voter who has declined to disclose a political party preference.

This bill would require a county elections official, between the 130th and 102nd day before a presidential primary election, to send each registered voter in the county a notice containing specified information, including the voter’s current political party preference, the type of ballot the voter will be able to cast at the presidential primary election, and instructions on how the voter may change the voter’s political party preference. The bill would require a county elections official, between the 99th and 71st day before a presidential primary election, to send each registered voter within the county who has declined to disclose a political party preference, and who has not requested the ballot of a political party, a second similar notice that also allows the voter to request
a vote by mail ballot for a specified political party by signing and returning the notice.

Existing law permits a voter who has declined to disclose a political party preference to request the ballot of a political party that has authorized a voter who has declined to disclose a political party preference to vote in its partisan primary election in the voter’s vote by mail application, by telephone, over the internet if available, or by email or facsimile transmission if permitted by the county elections official. Existing law permits a voter who has declined to disclose a political party preference and who has received a nonpartisan vote by mail ballot to, no later than 7 days before the date of the partisan primary election, return the unvoted ballot to the county elections official and receive the ballot for a political party, as specified.

This bill would revise and clarify how a voter who has declined to disclose a political party preference may request the ballot of a political party. The bill would require a county elections official to accept from a vote by mail voter who has declined to disclose a political party preference a request submitted by telephone, email, or facsimile transmission, as specified. The bill would permit an unvoted nonpartisan ballot to be returned in exchange for the ballot of a political party at any time before the close of the polls on election day. The bill would make other nonsubstantive conforming changes.

Existing law requires a county elections official to accept affidavits of registration received on or before the 15th day before an election and to accept conditional voter registration affidavits received during the 14 days immediately preceding an election and on election day. Existing law establishes procedures for a voter to change the voter’s residence address by executing a new affidavit of registration or a notice or letter of the change of address, or for a voter to change the voter’s political party preference by executing a new affidavit of registration.

This bill would permit a voter, from the 14th day immediately preceding an election until the close of polls on election day, in lieu of executing a new affidavit of registration, to change the voter’s residence address or political party preference by submitting to the voter’s county elections official a written request containing the new residence address or political party preference and signed under penalty of perjury. The bill would require a ballot or
provisional ballot to be provided to the voter, as specified, and would require the registration of the voter to be immediately updated.

By imposing additional duties on local elections officials and expanding the scope of crimes, this 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so 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. Section 2119.5 is added to the Elections Code, to read:

2119.5. (a) From the 14th day immediately preceding an election until the close of polls on election day, in lieu of executing a new affidavit of registration for a change of address within the same county, the county elections official shall accept a written request by a voter that contains all of the following:

(1) The voter’s printed name.
(2) The voter’s former residence address.
(3) The voter’s new residence address.
(4) A certification by the voter of the content of the written request as to its truthfulness and correctness, under penalty of perjury.
(5) The voter’s signature and date of execution.
(b) The written request shall be delivered to the county elections official’s office or to any location that offers conditional voter registration and at which a ballot can be issued in accordance with the following:
(1) A nonprovisional ballot shall be issued to the voter if either of the following applies:

(A) The voter appears at the voter’s precinct, the voter’s name is found on the roster, and the voter either has not been issued a vote by mail ballot or the conditions set forth in subdivision (a) of Section 3015 are satisfied.

(B) The voter appears at a location that is equipped with an electronic poll book or other means to determine the voter’s precinct, the location can provide the voter with a ballot for the voter’s precinct, the entire county has established connectivity between locations, and the location at which the voter appears verifies that the voter has not cast a ballot at another location for the election and notes in the voter’s record that the voter cast a ballot.

(2) A provisional ballot shall be issued to the voter if either of the following applies:

(A) The voter appears at the voter’s precinct, the voter’s name is found on the roster, the voter has been issued a vote by mail ballot, and the conditions set forth in subdivision (a) of Section 3015 are not satisfied.

(B) The voter appears at a location, other than the voter’s precinct, that is equipped with an electronic poll book or other means to determine the voter’s precinct, but the entire county has not established connectivity between locations such that the location is unable to verify that the voter has not cast a ballot at another location for the election.

(c) Upon receipt of a properly executed written request described in subdivision (a), the registration of the voter shall be immediately updated and the written request shall be maintained with the voter’s record.

SEC. 2. Section 2152 of the Elections Code is amended to read:

2152. (a) Whenever a voter has declined to disclose or has changed the voter’s political party preference prior to the close of registration for an election, the voter may either so disclose or have a change recorded by executing a new affidavit of registration and completing the prior registration portion of the affidavit.

(b) From the 14th day immediately preceding an election until the close of polls on election day, in lieu of executing a new affidavit of registration to disclose or have a change recorded for a voter’s political party preference, the county elections official
shall accept a written request by a voter that discloses or changes the voter’s political party preference and that contains all of the following:

1. The voter’s printed name.
2. The voter’s current residence address.
3. The voter’s new political party preference.
4. A certification by the voter of the content of the written request as to its truthfulness and correctness, under penalty of perjury.
5. The voter’s signature and date of execution.

(c) The written request shall be delivered to the county elections official’s office or to any location that offers conditional voter registration and at which a ballot for the political party for which the voter disclosed a preference can be issued in accordance with the following:

1. A nonprovisional ballot shall be issued to the voter if either of the following applies:
   A. The voter appears at the voter’s precinct, the voter’s name is found on the roster, and the voter either has not been issued a vote by mail ballot or the conditions set forth in subdivision (a) of Section 3015 are satisfied.
   B. The voter appears at a location that is equipped with an electronic poll book or other means to determine the voter’s precinct, the location can provide the voter with a ballot for the voter’s precinct, the entire county has established connectivity between locations, and the location at which the voter appears verifies that the voter has not cast a ballot at another location for the election and notes in the voter’s record that the voter cast a ballot.

2. A provisional ballot shall be issued to the voter if either of the following applies:
   A. The voter appears at the voter’s precinct, the voter’s name is found on the roster, the voter has been issued a vote by mail ballot, and the conditions set forth in subdivision (a) of Section 3015 are not satisfied.
   B. The voter appears at a location, other than the voter’s precinct, that is equipped with an electronic poll book or other means to determine the voter’s precinct, but the entire county has not established connectivity between locations such that the
location is unable to verify that the voter has not cast a ballot at another location for the election.

(d) Upon receipt of a properly executed written request described in subdivision (b), the registration of the voter shall be immediately updated and the written request shall be maintained with the voter’s record.

SEC. 3. Chapter 0.5 (commencing with Section 3000) is added to Division 3 of the Elections Code, to read:

Chapter 0.5. General Provisions

3000. This division shall be liberally construed in favor of the vote by mail voter.

3000.5. Before each partisan primary election, in accordance with Section 13502, the county elections official shall send a notice with each nonpartisan vote by mail ballot that is sent to a voter who has declined to disclose a political party preference.

SEC. 4. Section 3000 of the Elections Code is repealed.

SEC. 5. Section 3203 of the Elections Code is amended to read:

3203. (a) Upon receipt of an application for permanent vote by mail status, the county elections official shall process the application in the same manner as an application for a vote by mail ballot, or, in the case of an application made pursuant to Section 3102, in the same manner as an application for a special absent voter ballot or overseas ballot.

(b) In addition to processing applications in accordance with Chapter 1 (commencing with Section 3001), if it is determined that the applicant is a registered voter, the county elections official shall do the following:

(1) Place the voter’s name upon a list of those to whom a vote by mail ballot is sent each time there is an election within their precinct.

(2) Include in all vote by mail mailings to the voter an explanation of the vote by mail procedure and an explanation of Section 3206.

(3) Maintain a copy of the vote by mail ballot list on file open to public inspection for election and governmental purposes.

SEC. 6. Section 3205 of the Elections Code is amended to read:

3205. Vote by mail ballots mailed to, and received from, voters on the permanent vote by mail voter list are subject to the same
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deadlines and shall be processed and counted in the same manner as all other vote by mail ballots.

SEC. 7. Section 4100 of the Elections Code is amended to read:

4100. Except as otherwise provided in this chapter, mail ballot elections shall be conducted in accordance with Chapter 1 (commencing with Section 3001) of Division 3.

SEC. 8. Section 12100 is added to the Elections Code, immediately preceding Section 12101, to read:

12100. (a) Between the 130th and 102nd day before a presidential primary election, a county elections official shall send a notice to each registered voter within the county containing all of the following:

1. The current political party preference of the voter.
2. Information on the type of ballot the voter will be able to cast at the presidential primary election.
3. A statement that a voter who has declined to disclose a political party preference may request the ballot of one of the political parties that authorizes a voter who has declined to disclose a political party preference to vote in a presidential primary election, and the name of each political party that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming presidential primary election.
4. Instructions on how the voter can change the voter’s political party preference.
5. Information on how a voter who has declined to disclose a political party preference may request a ballot of a political party that so permits, as described in Section 13503.

(b) In addition to the notice described in subdivision (a), between the 99th and 71st day before a presidential primary election, a county elections official shall send a notice to each registered voter within the county who has declined to disclose a political party preference, and who has not requested the ballot of a political party, containing all of the following:

1. A statement that the voter has declined to disclose a political party preference.
2. Information on the type of ballot the voter will be able to cast at the presidential primary election.
3. A statement that a voter who has declined to disclose a political party preference may request the ballot of one of the political parties that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming presidential primary election.
political parties that has adopted a rule that authorizes a voter who has declined to disclose a political party preference to vote in a presidential primary election, and the name of each political party that has adopted a rule that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming presidential primary election.

(4) Instructions on how the voter can change the voter’s political party preference.

(5) Information on how a voter who has declined to disclose a political party preference may request a ballot of a political party that so permits, as described in Section 13503.

(6) A toll-free telephone number, which the Secretary of State shall establish, that a voter may call to access information regarding which political party has adopted a rule that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming presidential primary election.

(7) A link to, or the address of, the Secretary of State’s internet website on which a voter may access information regarding which political party has adopted a rule that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming presidential primary election.

(8) For purposes of requesting a vote by mail ballot for a political party, both of the following:

(A) A checkoff box with a conspicuously printed statement that reads substantially similar to the following: “I have declined to disclose a preference for a qualified political party. However, for this primary election only, I request a vote by mail ballot for the _______ Party. (Signed) ____________________.”

(B) Instructions on how and when to return the vote by mail ballot request described in paragraph (A) to the county elections official. The voter shall not be required to personally affix the name of the political party.

(c) The notices described in this section may be sent by various methods, including by mail, by email, or, if the voter has provided written consent to receive text messages from the county elections official, by text message.

SEC. 9. Section 13102 of the Elections Code is amended to read:

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public
officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered disclosing a preference with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless the voter, pursuant to Section 13503, requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to disclose a party preference to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices, voter-nominated offices, and measures to be voted for at the primary election. Each voter registered as preferring a political party participating in the election shall be furnished only a ballot for which the voter disclosed a party preference in accordance with Section 2151 or 2152 and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

(c) A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to disclose a party preference to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chair immediately upon adoption of that party rule. The party chair shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized.

(d) The county elections official shall maintain a record of which political party’s ballot was requested pursuant to subdivision (b), or whether a nonpartisan ballot was requested, by each person who declined to disclose a party preference. The record shall be made available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184. A record produced pursuant to this subdivision shall be made available in either a printed or electronic format, as requested by the authorized person or committee.
SEC. 10. Section 13502 of the Elections Code is amended to read:

13502. (a) With each nonpartisan vote by mail ballot that is sent to a voter who has declined to disclose a political party preference, the county elections official shall include a notice informing the voter that a voter who has declined to disclose a political party preference may request the ballot of a political party if the party, by party rules duly noticed to the Secretary of State, authorizes a voter who has declined to disclose a political party preference to vote the ballot of the party at the next partisan primary election. The notice shall also contain the name of each political party that authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot at the upcoming partisan primary election, and information on how a voter who has declined to disclose a political party preference may request a ballot of a political party that so permits, as described in Section 13503.

(b) Any time before the close of the polls on election day, a voter who has declined to disclose a political party preference and who has received a nonpartisan vote by mail ballot may return the voter’s unvoted ballot to the county elections official and request and receive the ballot for a political party if the political party has authorized a voter who has declined to disclose a political party preference to vote in its partisan primary election.

SEC. 11. Section 13503 is added to the Elections Code, to read:

13503. A voter who has declined to disclose a political party preference may request a ballot for a particular political party for the primary election, if the party, by party rule duly noticed to the Secretary of State, authorizes a voter who has declined to disclose a political party preference to vote the party’s ballot, as follows:

(a) For any voter, in person at a polling location.

(b) For any voter, by a vote by mail ballot application request pursuant to subdivision (c) of Section 3006, Section 3007.7, or Section 3007.8. Except as required by subdivision (c) of Section 3006, the address to which the ballot is to be mailed and the name of the political party shall not be required to be personally affixed by the voter, and the voter’s signature shall not be required.

(c) For a vote by mail voter, by telephone, email, or facsimile transmission as follows:
(1) The voter shall provide to the county 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.

(2) A person shall not request a ballot pursuant to this subdivision using the name of, or on behalf of, another person.

(3) Prior to being asked for personal identifying information via telephone, a voter requesting a ballot pursuant to this subdivision shall be advised as follows: “Only the registered voter themself may request a ballot for a particular political party for the primary election. A request for a party ballot that is made by any person other than the registered voter is a criminal offense.”

(4) Upon receiving an email or facsimile request, the county elections official shall confirm receipt, and shall advise the voter requesting a ballot pursuant to this subdivision as follows: “Only the registered voter themself may request a ballot for a particular political party for the primary election. A request for a party ballot that is made by any person other than the registered voter is a criminal offense.”

SEC. 12. Section 18402 of the Elections Code is amended to read:

18402. Any individual, group, or organization that knowingly distributes any application for a vote by mail ballot that does not conform to Chapter 1 (commencing with Section 3001) of Division 3 is guilty of a misdemeanor.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other 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. 14. 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:

In order to ensure that the procedures and protections afforded by this act will be implemented for the 2020 presidential primary election, it is necessary for this act to take effect immediately.
Approved ______________________, 2019

Governor