

AMENDED IN ASSEMBLY APRIL 18, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 706**

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**Introduced by Assembly Member ~~Longville~~ Firebaugh**

February 22, 2001

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~~An act to amend Sections 3017 and 14294 of the Elections Code, relating to elections. An act to add Chapter 7 (commencing with Section 20600) to Division 20 of the Elections Code, and to add Sections 402.5, 25004.5, 34501.5, and 68080.5 to the Government Code, relating to campaign literature.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 706, as amended, ~~Longville~~ Firebaugh. ~~Absent voters: election day procedures~~ Campaign literature: use of official seals; records of printing orders.

*Existing law provides that every person who maliciously or for commercial purposes uses or allows to be used any reproduction or facsimile of the Great Seal of the State in any manner whatsoever is guilty of a misdemeanor.*

*This bill, in addition, would provide that a person who uses or allows to be used any reproduction or facsimile of the Great Seal of the State in any campaign literature or mass mailing, as defined, with intent to deceive the voters, is guilty of a misdemeanor.*

*Existing law authorizes a county board of supervisors to adopt a county seal, and authorizes a city council of a general law city to adopt a city seal.*

*This bill would provide that any person who uses or allows to be used any reproduction or facsimile of the seal of a county or a city in any*

*campaign literature or mass mailing, as defined, with intent to deceive the voters, is guilty of a misdemeanor.*

*Existing law requires that each court in this state have an official seal and that the clerk of the court keep the official seal of the court.*

*This bill would provide that a person who uses or allows to be used any reproduction or facsimile of the seal of the California Supreme Court, an appellate court, or the seal of any superior court in any campaign literature or mass mailing, as defined, with intent to deceive the voters, is guilty of a misdemeanor.*

*This bill, by adding to the definition of the crime of misdemeanor, would impose a state-mandated local program.*

*This bill would, in addition, require a person who commercially prints or mails any campaign literature or any mass mailing, as defined in a specified provision of law, for five years from the date of completing a printing or mailing order, to keep a copy of the printing or mass mailing and a record of the identity of the person or persons who paid for the campaign literature or mass mailing, and of the person on whose behalf the literature or mailing is produced or processed, if any. It would require the person who submits the printing or mailing order to present proof of valid California identification to the printer or mail operator.*

*This bill would require these records to be made available during regular business hours upon request of a person seeking access to those records and to the Fair Political Practices Commission, the Attorney General, a district attorney, or a law enforcement agency in connection with an investigation.*

*This bill would impose a civil fine for failure to maintain the records required by this bill or to produce the records upon request of any person or representative of any agency named in this bill, as specified, for a first, second, and for a third and each subsequent offense.*

*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 no reimbursement is required by this act for a specified reason.*

~~*Existing law authorizes an absent voter who, because of illness or other physical disability, is unable to return the ballot, to designate specified family members to return the ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction.*~~



~~This bill would delete the requirement that an absent voter be ill or disabled in order to designate a specified family member to return the ballot on his or her behalf, and would thereby impose a state-mandated local program.~~

~~Existing law provides procedures to be followed at the polls on election day and requires, among other things, that a member of the precinct board mark off the names of persons who have voted from a copy of the index kept at the polling place each hour, until 6 p.m.~~

~~This bill would extend the time for this procedure until 8 p.m.~~

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~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 3017 of the Elections Code is amended~~  
2 *SECTION 1. Chapter 7 (commencing with Section 20600) is*  
3 *added to Division 20 of the Elections Code, to read:*

4  
5 *CHAPTER 7. CAMPAIGN MAILINGS*  
6

7 *20600. (a) A person who commercially prints or mails any*  
8 *campaign literature or any mass mailing, as defined in Section*  
9 *82041.5 of the Government Code, shall, for five years from the date*  
10 *of completing a printing or mailing order, keep a copy of the*  
11 *printing or mass mailing and a record of the identity of the person*  
12 *or persons who paid for the campaign literature or mass mailing,*  
13 *and of the person on whose behalf the literature or mailing is*  
14 *produced or processed, if any. The person who submits a printing*  
15 *or mailing order shall present proof of valid California*



1 identification, including a valid California drivers' license or  
2 identification card, to the printer or mail operator.

3 (b) The records maintained pursuant to this section shall be  
4 made available during regular business hours upon request of a  
5 person seeking access to those records and to the Fair Political  
6 Practices Commission, the Attorney General, a district attorney,  
7 or a law enforcement agency in connection with an investigation.

8 (c) Failure to maintain the records required by this section or  
9 produce the records upon request of any person or representative  
10 of any agency named in subdivision (b) shall be punishable by a  
11 fine of one thousand dollars (\$1,000) for the first offense, five  
12 thousand dollars (\$5,000) for the second offense, and ten thousand  
13 dollars (\$10,000) for a third and each subsequent offense.

14 SEC. 2. Section 402.5 is added to the Government Code, to  
15 read:

16 402.5. In addition to the acts prohibited by Section 402, a  
17 person who uses or allows to be used any reproduction or facsimile  
18 of the Great Seal of the State in any campaign literature or mass  
19 mailing, as defined in Section 82041.5, with intent to deceive the  
20 voters, is guilty of a misdemeanor.

21 SEC. 3. Section 25004.5 is added to the Government Code, to  
22 read:

23 25004.5. Any person who uses or allows to be used any  
24 reproduction or facsimile of the seal of the county in any campaign  
25 literature or mass mailing, as defined in Section 82041.5, with  
26 intent to deceive the voters, is guilty of a misdemeanor.

27 SEC. 4. Section 34501.5 is added to the Government Code, to  
28 read:

29 34501.5. Any person who uses or allows to be used any  
30 reproduction or facsimile of the seal of the city in any campaign  
31 literature or mass mailing, as defined in Section 82041.5, with  
32 intent to deceive the voters, is guilty of a misdemeanor.

33 SEC. 5. Section 68080.5 is added to the Government Code, to  
34 read:

35 68080.5. A person who uses or allows to be used any  
36 reproduction or facsimile of the seal of the California Supreme  
37 Court, an appellate court, or a superior court in any campaign  
38 literature or mass mailing, as defined in Section 82041.5, with  
39 intent to deceive the voters, is guilty of a misdemeanor.



1     *SEC. 6. No reimbursement is required by this act pursuant to*  
2 *Section 6 of Article XIII B of the California Constitution because*  
3 *the only costs that may be incurred by a local agency or school*  
4 *district will be incurred because this act creates a new crime or*  
5 *infraction, eliminates a crime or infraction, or changes the penalty*  
6 *for a crime or infraction, within the meaning of Section 17556 of*  
7 *the Government Code, or changes the definition of a crime within*  
8 *the meaning of Section 6 of Article XIII B of the California*  
9 *Constitution.*

10 to read:

11     ~~3017. (a) All absentee ballots cast under this division shall be~~  
12 ~~voted on or before the day of the election. After marking the ballot,~~  
13 ~~the absent voter shall either: (1) return the ballot by mail or in~~  
14 ~~person to the elections official from whom it came or (2) return the~~  
15 ~~ballot in person to any member of a precinct board at any polling~~  
16 ~~place within the jurisdiction. However, an absent voter who is~~  
17 ~~unable to return the ballot, may designate his or her spouse, child,~~  
18 ~~parent, grandparent, grandchild, brother, or sister to return the~~  
19 ~~ballot to the elections official from whom it came or to the precinct~~  
20 ~~board at any polling place within the jurisdiction. The ballot must,~~  
21 ~~however, be received by either the elections official from whom~~  
22 ~~it came or the precinct board before the close of the polls on~~  
23 ~~election day.~~

24     ~~(b) The elections official shall establish procedures to insure~~  
25 ~~the secrecy of any ballot returned to a precinct polling place.~~

26     ~~(c) The provisions of this section are mandatory, not directory,~~  
27 ~~and a ballot may not be counted unless it is delivered in compliance~~  
28 ~~with this section.~~

29     ~~SEC. 2. Section 14294 of the Elections Code is amended to~~  
30 ~~read:~~

31     ~~14294. At all elections, a member of the precinct board shall~~  
32 ~~mark, on one of the copies of the index posted at or near the polling~~  
33 ~~place, the name of each person who has voted, by drawing a line~~  
34 ~~through the name of the voter, with a pen or indelible pencil. The~~  
35 ~~board member shall mark off the names at least once each hour, to~~  
36 ~~and including 8 p.m. In a county not using the index roster, the~~  
37 ~~board member shall draw a line under the last name signed in the~~  
38 ~~roster at 8 p.m. or at the time of discontinuation of this procedure,~~  
39 ~~whichever occurs last.~~



1    ~~SEC. 3.—Notwithstanding Section 17610 of the Government~~  
2    ~~Code, if the Commission on State Mandates determines that this~~  
3    ~~act contains costs mandated by the state, reimbursement to local~~  
4    ~~agencies and school districts for those costs shall be made pursuant~~  
5    ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~  
6    ~~2 of the Government Code. If the statewide cost of the claim for~~  
7    ~~reimbursement does not exceed one million dollars (\$1,000,000),~~  
8    ~~reimbursement shall be made from the State Mandates Claims~~  
9    ~~Fund.~~

