

**ASSEMBLY BILL**

**No. 714**

---

---

**Introduced by Assembly Member Leno**

February 19, 2003

---

---

An act to amend Sections 19225, 19226, 19227, 19227.5, and 19229 of the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 714, as introduced, Leno. Accessible voting.

Under existing law, a county is required to provide at least one voting unit at each polling place, to provide access to persons who are visually impaired, so long as sufficient funds from specified federal sources are available.

This bill would include within this requirement persons who are mobility impaired, so long as funds are available from the federal sources identified under existing law. The bill would add a federal source for this purpose, namely the Help America Vote Act (P.L. 107-252).

Under existing law, county election officials are not required to make polling places accessible to persons with physical disabilities, except for voting machines used in federal elections.

This bill would provide that for all elections, county election officials plan for and provide information about accessibility to persons with physical disabilities using polling places, to do outreach and train poll workers about the availability of accessible polling places, and to report their efforts to the Secretary of State. By increasing the duties of 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, 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 19225 of the Elections Code is amended
- 2 to read:
- 3 19225. The Legislature finds and declares as follows:
- 4 (a) Microchip and digital technologies are increasingly
- 5 changing the way Americans vote.
- 6 (b) State and political subdivisions are replacing antiquated
- 7 voting methods and machines with computer and electronic-based
- 8 voting systems, but nonvisual access, whether by speech, braille,
- 9 or other appropriate means, is often overlooked in certifying and
- 10 purchasing the latest voting technology.
- 11 (c) Voting technology and systems that allow the voter to
- 12 access and select information solely through a visual means are a
- 13 barrier to access by individuals who are blind or visually impaired,
- 14 thereby discouraging them from exercising the right to vote, the
- 15 most fundamental right of citizenship in a free and democratic
- 16 society.
- 17 (d) Software and hardware adaptations have been created so
- 18 that voters can interact with voting technology and systems
- 19 through both visual and nonvisual means allowing blind and
- 20 visually impaired people to cast a secret ballot and independently
- 21 verify their vote.
- 22 (e) In promoting full participation in the electoral process, the
- 23 goals of the state and its political subdivisions must recognize the



1 incontrovertible right of all citizens regardless of blindness or  
2 visual impairment to vote.

3 (f) This right must include the opportunity for individuals who  
4 are blind or visually impaired to cast and verify their ballots  
5 independently.

6 (g) *As voting technology advances and as the state and its*  
7 *political subdivisions employ new voting equipment to address the*  
8 *needs of voters, innovative solutions must be applied in a*  
9 *comprehensive way that improves and increases access for all*  
10 *those who have heretofore been unable to cast a ballot*  
11 *independently and privately.*

12 (h) *It is vital for the state as soon as practicable to extend to all*  
13 *its citizens full access to the ballot regardless of visual or mobility*  
14 *impairment.*

15 SEC. 2. Section 19226 of the Elections Code is amended to  
16 read:

17 19226. As used in this article:

18 (a) “Access” means the ability *of an individual independently*  
19 *and without assistance* to receive, use, select, and manipulate data  
20 and operate controls included in voting technology and systems.

21 (b) “Nonvisual” means synthesized speech, braille, and other  
22 output methods not requiring sight.

23 SEC. 3. Section 19227 of the Elections Code is amended to  
24 read:

25 19227. (a) The Secretary of State shall adopt rules and  
26 regulations governing any voting technology and systems used by  
27 the state or any political subdivision that provide blind and visually  
28 impaired individuals *and individuals with mobility impairment or*  
29 *who achieve mobility in an assisted fashion such as a wheelchair*  
30 *with access that is equivalent to that provided to individuals who*  
31 *are not blind-~~or~~, visually impaired, or mobility impaired*, including  
32 the ability for the voter to cast and verify all selections made by  
33 both visual and nonvisual means.

34 (b) At each polling place, at least one voting unit approved  
35 pursuant to subdivision (a) by the Secretary of State shall provide  
36 access to individuals who are blind-~~or~~, visually impaired, *or*  
37 *mobility impaired.*

38 (c) *Each county elections official shall develop a plan for*  
39 *making polling places, including paths of travel, entrances, exits,*  
40 *and voting areas of each polling place, accessible to persons with*



1 *physical disabilities in a manner that provides the same*  
2 *opportunity for access and participation, including privacy and*  
3 *independence, as other voters enjoy.*

4 (d) *Each county elections official shall provide individuals with*  
5 *physical disabilities and others with information about the*  
6 *accessibility of polling places, develop outreach programs to*  
7 *inform individuals about the availability of accessible polling*  
8 *places, and train election officials, poll workers, and election*  
9 *volunteers on how best to promote the access and participation of*  
10 *individuals with disabilities in elections.*

11 (e) *Plans developed pursuant to subdivisions (c) and (d) shall*  
12 *describe the activities undertaken to address the goal of achieving*  
13 *access and shall be used for the purposes of securing federal*  
14 *funding pursuant to Section 261, et seq., of the Help America Vote*  
15 *Act of 2002 (P.L. 107-252).*

16 (f) *Each county shall report in ways and at times deemed*  
17 *appropriate by the Secretary of State on expenditure of funds,*  
18 *activities, and progress toward improving access to polling places*  
19 *for persons with visual impairment, mobility impairment, and*  
20 *physical disabilities.*

21 (g) A local agency is not required to comply with subdivision  
22 (b) unless sufficient funds are available to implement that  
23 provision. Funds received from the proceeds of the Voting  
24 Modernization Bond Act of 2002 (Article 3 (commencing with  
25 Section 19230), from federal funds made available to purchase  
26 new voting systems, *from federal funds provided pursuant to the*  
27 *Help America Vote Act of 2002 (P.L. 107-252), or from any other*  
28 *source except the General Fund, shall be used for that purpose.*

29 SEC. 4. Section 19227.5 of the Elections Code is amended to  
30 read:

31 19227.5. In requiring nonvisual access *and access by those*  
32 *with any mobility impairment* pursuant to this article, the Secretary  
33 of State shall obtain recommendations from representatives of  
34 blind consumer organizations, *representatives of disabled groups,*  
35 experts in accessible software and hardware design, and any other  
36 individual or organization the Secretary of State determines to be  
37 appropriate.

38 SEC. 5. Section 19229 of the Elections Code is amended to  
39 read:



1 19229. (a) A person injured by a violation of this article may  
2 maintain an action for injunctive relief to enforce this article.

3 (b) An action for injunctive relief shall be commenced within  
4 four years after the cause of action accrues.

5 (c) For the purposes of this section, a cause of action for a  
6 continuing violation accrues at the time of the latest violation.

7 (d) *Notwithstanding any other law, no action may be brought*  
8 *against the state or any of its political subdivisions on the basis of*  
9 *information contained in plans, reports, or applications for*  
10 *funding required under subdivision (c), (d), (e), or (f) of Section*  
11 *19227, except in cases of liability resulting from criminal acts or*  
12 *omissions.*

13 SEC. 6. Notwithstanding Section 17610 of the Government  
14 Code, if the Commission on State Mandates determines that this  
15 act contains costs mandated by the state, reimbursement to local  
16 agencies and school districts for those costs shall be made pursuant  
17 to Part 7 (commencing with Section 17500) of Division 4 of Title  
18 2 of the Government Code. If the statewide cost of the claim for  
19 reimbursement does not exceed one million dollars (\$1,000,000),  
20 reimbursement shall be made from the State Mandates Claims  
21 Fund.

