

AMENDED IN ASSEMBLY MAY 4, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 867**

**Introduced by Assembly Member Liu**

February 18, 2005

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An act to add Division 4.5 (commencing with Section 4500) to the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as amended, Liu. Vote by mail.

Existing law authorizes a local, special, or consolidated election to be conducted wholly by mail if the governing body of the local agency authorizes the use of all mailed ballots for the election, the election is held on an established mailed ballot election date, and the election meets certain other specified requirements.

This bill would, until January 1, 2011, authorize ~~3 7 specified~~ counties, ~~selected by the Legislature from counties that volunteer,~~ to participate in a vote-by-mail pilot project. The bill would require the ~~3 7~~ selected counties to provide the voters in that county, for any local, special, primary, or general election to be held in the county for the duration of this pilot program, with ballots that may be returned by mail.

The bill would require that a county elections official mail by nonforwardable mail an official ballot with a return identification envelope and a secrecy envelope no sooner than the 29th day before the date of an election conducted by mail and no later than the 7th day before the date of the election, to each voter in the precinct who is registered as of the 29th day prior to the election and mail the ballot

no later than 3 days before the election to any voter who is registered as of the 15th day prior to the election.

The bill would set forth the procedures for completing and returning a vote by mail ballot.

The bill would provide that a vote-by-mail ballot be counted only if the ballot is returned in the return identification envelope, the envelope is signed by the voter to whom the ballot is issued, and the signature is verified by the elections official, as specified.

The bill would require any county participating in this pilot project to report to the Legislature on the effectiveness of the vote by mail pilot project no later than January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Division 4.5 (commencing with Section 4500)  
2 is added to the Elections Code, to read:

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DIVISION 4.5. VOTE BY MAIL

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6 4500. The Legislature finds and declares all of the following:

7 Voting by mail is a relatively new concept, first tried in  
8 Monterey, California, in 1977. Since that time, many elections  
9 have been held by mail, from local ballot initiatives to contests  
10 for federal office.

11 Vote by mail is cost effective. The cost of a vote-by-mail  
12 election is nearly 30 percent less than the cost of a polling place  
13 election.

14 In states that have tried voting by mail, voter turnout has  
15 increased. In Oregon, a state which conducts all elections by  
16 mail, 84 percent of those registered to vote, voted in the 2004  
17 election.

18 Voting by mail is convenient because it allows voters to vote  
19 according their own schedules and eliminates long lines at  
20 polling places.

21 Voting by mail creates a more informed voting public because  
22 individuals have time to study the issues and candidates, to get  
23 questions answered, and to clarify any points of confusion.

1 Thus, it is the intent of the Legislature to establish a  
2 vote-by-mail pilot project in specified counties before  
3 implementing voting by mail on a statewide basis.

4 4501. (a) Notwithstanding any other provision of law, ~~three~~  
5 ~~counties, to be selected by the Legislature from counties that~~  
6 ~~volunteer, shall participate in the vote-by-mail pilot project the~~  
7 *counties of Calaveras, Mendocino, San Benito, San Mateo, Santa*  
8 *Cruz, Sierra, and Ventura may participate in the vote-by-mail*  
9 *pilot project* established pursuant to this division.

10 (b) ~~The three counties selected pursuant to seven counties~~  
11 *identified in* subdivision (a) shall provide the voters in that  
12 county, for any local, special, primary, or general election to be  
13 held in the county not later than January 1, 2011, with ballots that  
14 may be returned by mail.

15 4502. (a) An elections official shall mail by nonforwardable  
16 mail an official ballot with a return identification envelope and a  
17 secrecy envelope no sooner than the 29th day before the date of  
18 an election conducted by mail and no later than the 7th day  
19 before the date of the election, to each voter in the precinct who  
20 is registered as of the 29th day prior to the election.

21 (b) An elections official shall mail by nonforwardable mail an  
22 official ballot with a return identification envelope and a secrecy  
23 envelope no later than three days before the election to any voter  
24 who is registered as of the 15th day prior to the election.

25 4503. All of the following apply to a vote-by-mail election  
26 held on the date of a primary election:

27 (a) The elections official shall mail the official ballot of a  
28 ~~major~~ *qualified* political party to each voter who is registered as  
29 being affiliated with the ~~major~~ *qualified* political party as of the  
30 29th day before the date of the election.

31 (b) A voter who is not affiliated with any political party shall  
32 be mailed the ballot of a qualified political party in whose  
33 primary election the voter wishes to vote if the voter has applied  
34 to the elections official, pursuant to Section 3205.

35 4504. The voting instructions or voter information pamphlet  
36 shall contain the following warning:

37 “Any person who, by use of force or other means, unduly  
38 influences a voter to vote in any particular manner or to refrain  
39 from voting, is subject, upon conviction, to imprisonment or to a

1 fine, or both, as provided in Chapter 6 (commencing with Section  
2 18500) of Division 18 of the Elections Code.”

3 4505. (a) On the receipt of any ballot described in this  
4 division, the voter shall mark the ballot, sign and return the  
5 identification envelope supplied with the ballot, and comply with  
6 the instructions provided with the ballot.

7 (b) The voter may return the marked ballot using any of the  
8 following methods:

9 (1) *By mail, with the postage paid, provided that the ballot is*  
10 *received by the elections official no later than the close of the*  
11 *polls on the date of the election.*

12 (2) By depositing the ballot at the office of the elections  
13 official.

14 ~~(2)~~

15 (3) By depositing the ballot at any other place designated by  
16 the elections official for the return of ballots.

17 (c) The ballot shall be returned in the return identification  
18 envelope.

19 4506. The elections official shall provide, at any location  
20 where ballots are issued, suitable compartments, shelves, or  
21 tables at which voters may mark their ballots. The arrangement  
22 of the compartments, shelves, or tables shall ensure that the voter  
23 may conveniently mark the ballot with absolute secrecy. The  
24 compartments, shelves, or tables shall be available during the  
25 entire time that the ballots are issued.

26 4507. (a) The elections official shall send a second  
27 vote-by-mail ballot to any voter upon receipt of a statement  
28 under penalty of perjury that the voter has failed to receive, lost,  
29 or destroyed his or her original ballot.

30 (b) The elections official shall keep a record of each absent  
31 voter ballot sent to, and received from, a voter and shall verify,  
32 prior to counting any duplicate ballot, that the voter has not  
33 attempted to vote twice. If it is determined that the voter has  
34 attempted to vote twice, both ballots shall be void.

35 4508. (a) A vote-by-mail ballot shall be counted only if the  
36 all of the following requirements are met:

37 (1) The ballot is returned in the return identification envelope.

38 (2) The envelope is signed by the voter to whom the ballot is  
39 issued.

40 (3) The signature is verified pursuant to subdivision (b).

1 (b) The elections official shall compare the signature of each  
2 voter on the return identification envelope with the signature on  
3 the voter's registration card, according to procedures established  
4 in rules adopted by the Secretary of State, and verify that the  
5 signatures match.

6 4509. The elections official shall keep open for public  
7 inspection a list, by voter name, of all vote-by-mail ballots that  
8 have been received.

9 4510. Any county participating in the pilot project established  
10 pursuant to this division shall report to the Legislature on the  
11 effectiveness of the vote by mail pilot project not later than  
12 January 1, 2011.

13 4511. This division shall remain in effect only until January  
14 1, 2011, and as of that date is repealed, unless a later enacted  
15 statute, that is enacted before January 1, 2011, deletes or extends  
16 that date.