

Assembly Bill No. 46

CHAPTER 28

An act to add and repeal Section 15360.5 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 22, 2010. Filed with
Secretary of State June 22, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 46, Monning. Elections: official canvass: manual tally.

Existing law requires, during the official canvass of an election in which a voting system is used, the official conducting the election to conduct a public manual tally of the ballots tabulated by those devices, including vote by mail voters' ballots, cast in 1% of the precincts chosen at random by the elections official.

This bill would authorize an official who conducts an election in San Luis Obispo County, Santa Barbara County, Santa Clara County, or Santa Cruz County that takes place on June 8, 2010, June 22, 2010, or August 17, 2010, to conduct a public manual tally by alternative means than those described above. Specifically, the bill would permit the official conducting the election to conduct a separate manual tally of the ballots cast in 1% of the precincts chosen at random by the elections official and a separate manual tally of no less than 1% of the vote by mail ballots cast in the election.

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 15360.5 is added to the Elections Code, to read:

15360.5. (a) During the official canvass of any election in San Luis Obispo County, Santa Barbara County, Santa Clara County, or Santa Cruz County conducted on June 8, 2010, June 22, 2010, or August 17, 2010, the official conducting the election may, in lieu of subdivision (a) of Section 15360, conduct a public manual tally of the ballots tabulated by the voting system used in the election by completing all of the following:

(1) A public manual tally of the ballots, not including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official. In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional

precinct. The manual tally shall apply only to the race not previously counted.

(2) A separate public manual tally of not less than 1 percent of the vote by mail ballots cast in the election. Batches of vote by mail ballots shall be chosen at random by the elections official. For the purposes of this section, “batch” means a set of ballots tallied by the voting system and for which the voting system can produce a report of the votes cast. In addition to the 1 percent manual tally of the vote by mail ballots, the elections official shall, for each race not included in the initial group of batches of vote by mail ballots, count one additional batch of vote by mail ballots. The manual tally shall apply only to the race not previously counted.

(b) Additional precincts for the manual tally described in subdivision (a) may be selected at the discretion of the elections official.

(c) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to subdivision (a) or conduct a public manual tally of those ballots cast on not less than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(d) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts, batches of vote by mail ballots, or direct recording electronic voting machines subject to a public manual tally pursuant to subdivision (a).

(e) The manual tally conducted pursuant to subdivision (a) shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts, batches, or machines from which ballots are to be tallied prior to conducting the tally and selection.

(f) The official conducting the election shall include a report on the results of any 1 percent manual tally conducted pursuant to subdivision (a) in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record.

(g) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. 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 Constitution and shall go into immediate effect. The facts constituting the necessity are:

A special election is scheduled to take place on June 22, 2010, in San Luis Obispo County, Santa Barbara County, Santa Clara County, and Santa Cruz County, the cost of which will put a significant strain on the counties' budgets and negatively impact the ability of the counties to provide critical services. In order to save county funds, it is necessary that this act take effect immediately.

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