

Senate Bill No. 211

CHAPTER 306

An act to amend Sections 3311, 10730, 10731, 10733, and 10734 of, and to add Section 10735 to, the Elections Code, relating to elections.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 211, Simitian. Elections: special elections.

Existing federal law requires a special election for the office of Representative in Congress whenever the Speaker of the House of Representatives announces that more than 100 vacancies exist in the United States House of Representatives. Existing federal law requires the special election to take place within 49 days of the Speaker announcing the vacancy, unless a special or regular election to fill the vacancy was previously scheduled and will take place within 75 days of the Speaker's announcement. Existing federal law requires state elections officials, to the extent practicable, to transmit absentee ballots for the special election to uniformed services voters and overseas voters within 15 days of the Speaker's announcement. Those ballots must be returned to the appropriate elections official within 45 days of transmittal of the ballots by the elections official in order to be counted.

Existing California law requires the Governor to issue a proclamation calling a special election for the office of Representative in Congress within 7 calendar days of a catastrophe, which is defined as an event that causes the vacancy of at least $\frac{1}{4}$ of the total number of offices in the United States House of Representatives, including any number of the offices representing California, or at least $\frac{1}{4}$ of the total number of offices representing California. Existing California law requires that the special election occur at least 56 days, but not more than 63 days, following the issuance of the Governor's proclamation. Existing law requires the ballots of uniformed services and overseas voters to be returned to the appropriate elections official by 8 p.m. on the day of a federal election in order to be counted.

This bill would conform California law to federal law. The bill would require the Governor to call a special election for the office of Representative in Congress whenever vacancies exist in the United States House of Representatives totaling at least 101 in number, at least one of which represents California. The bill would require that the special election take place not later than 49 days after the announcement of the vacancy by the Speaker of the House of Representatives or the Governor calling the special election, unless a special or regular election to fill the vacancy was previously scheduled and will take place within 75 days of the Speaker's announcement.

The bill would require elections officials, to the greatest extent practicable, to deliver the ballots of military services and overseas voters not later than 15 days after the Speaker's announcement of the vacancy. This bill would require that the ballots of uniformed services and overseas voters for the special election be returned to the appropriate elections officials within 45 days of the transmittal of the ballots by the elections officials in order to be counted. The bill would permit, with authorization from the Secretary of State, the extension of canvassing, election announcement, and election certification deadlines for the special election in order to facilitate the tabulation and processing of uniformed services and overseas voter ballots.

Because the bill would require a higher level of service from local elections officials, it 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, 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.

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

SECTION 1. Section 3311 of the Elections Code is amended to read:

3311. Except as provided in Section 10735, all vote by mail ballots cast pursuant to this chapter shall be received by the county elections official not later than 8 p.m. on the day of a federal election.

SEC. 2. Section 10730 of the Elections Code is amended to read:

10730. (a) This chapter provides the procedures for nomination and election of candidates at a special election to fill vacancies in the House of Representatives caused by a catastrophe.

(b) The procedures provided by Chapter 1 (commencing with Section 10700) shall apply to special elections to the extent those provisions are not inconsistent with this chapter or Section 8 of Title 2 of the United States Code.

SEC. 3. Section 10731 of the Elections Code is amended to read:

10731. For purposes of this chapter, the following terms have the following meanings:

(a) "Catastrophe" means a natural or man-made event that causes a vacancy in at least 101 of the offices of the United States House of Representatives, including at least one of the offices representing California, or at least one-fourth of the total number of offices representing California.

(b) "Vacancy" means the death or disappearance, as a result of a catastrophe, of a Representative in Congress.

(c) "Disappearance" means the inability to establish conclusively whether a Representative in Congress has survived a catastrophe.

SEC. 4. Section 10733 of the Elections Code is amended to read:

10733. (a) In the event of a catastrophe that causes a vacancy in at least 101 of the offices of the United States House of Representatives, including at least one of the offices representing California, a special election to fill a vacancy in the office of Representative in Congress shall be conducted on a Tuesday not more than 49 days following the announcement of the vacancy by the Speaker of the United States House of Representatives pursuant to subsection (b) of Section 8 of Title 2 of the United States Code. Notwithstanding Section 10732, the Governor shall issue a proclamation calling the special election within one day of the Speaker of the United States House of Representatives announcing the vacancy. In the event of a catastrophe that causes a vacancy in at least one-fourth of the total offices of the United States House of Representatives representing California but not a vacancy in at least 101 of the offices of the United States House of Representatives, the special election shall occur on a Tuesday not more than 49 days following the issuance of an election proclamation by the Governor.

(b) A special election may be conducted within 75 days following the proclamation in order that the special election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

(c) A special election to fill a vacancy caused by a catastrophe that causes vacancies in at least 101 of the offices of the United States House of Representatives pursuant to subdivision (a) shall not be conducted if any of the following is scheduled to occur within 75 days of the Speaker of the United States House of Representatives calling the vacancy:

(1) A regularly scheduled general election for the vacant office.

(2) A special election for the vacant office, conducted pursuant to a proclamation issued by the Governor prior to the date on which the Speaker of the United States House of Representatives announced the vacancy.

SEC. 5. Section 10734 of the Elections Code is amended to read:

10734. (a) A special primary election shall not be held for a special general election conducted pursuant to this chapter. Candidates at the special general election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 46 days before the special general election, shall be left with the county elections official for examination not less than 39 days before the special general election, and shall be filed with the Secretary of State not less than 35 days before the special general election.

(b) Notwithstanding Section 3001, applications for vote by mail voter ballots may be submitted not more than 30 days before the special general election. Applications received by the elections official prior to the 30th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 30th day prior to the election in the same manner as if received at that time.

SEC. 6. Section 10735 is added to the Elections Code, to read:

10735. (a) (1) In the case of a special election due to a catastrophe that causes a vacancy in at least 101 offices of the of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 4 (commencing with Section 3300) of Division 3 not later than 15 days after the date on which the Speaker of the United States House of Representatives announces the vacancy.

(2) In the case of a special election due to a catastrophe that causes a vacancy in at least one-fourth of the total offices of the United States House of Representatives representing California but not a vacancy in at least 101 of the offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 4 (commencing with Section 3300) of Division 3 not later than 15 days after the date on which the Governor issues the proclamation calling the election to fill the vacancy.

(b) A vote by mail ballot cast pursuant to Chapter 4 (commencing with Section 3300) of Division 3 in a special general election conducted pursuant to this chapter shall be postmarked not later than the date of the election, shall be received by the county elections official not later than 45 days after the date on which the elections official transmitted the ballot to the voter, and shall comply with all other relevant requirements of this code.

(c) Notwithstanding any other provision of law, any deadlines relating to canvassing, announcement of election results, or certification of election results may be extended for a reasonable period of time to facilitate the tabulating and processing of ballots cast pursuant to Chapter 4 (commencing with Section 3300) of Division 3. An extension of a deadline pursuant to this section must be authorized by the Secretary of State.

SEC. 7. If the Commission on State Mandates determines that this act contains 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.