

Assembly Bill No. 503

CHAPTER 190

An act to amend Section 15342 of the Elections Code, relating to elections.

[Approved by Governor August 8, 2011. Filed with
Secretary of State August 8, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 503, Block. Processing write-in votes.

Existing law prescribes the procedure for conducting an official canvass of election results, including the manner in which a name written upon a ballot for a qualified write-in candidate is to be counted for the office. Existing law, with regard to voting systems in which write-in spaces appear directly below the list of candidates for that office and provide a voting space, prohibits an elections official from counting a write-in vote unless the voting space next to the write-in space is marked or slotted as directed in the voting instructions.

This bill, as an exception to that prohibition, would authorize the elections official, after tallying all eligible votes but prior to completion of the official canvass and the issuance of the certified statement of the results, and upon the request of a qualified write-in candidate for an examination of undervotes that is received within 5 days of completion of the semi-official canvass, to hand tally the remaining undervotes if specified conditions are applicable. If an elections official conducts a hand tally pursuant to this authority, the bill would require the elections official to include the results in the official canvass of the election.

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

SECTION 1. Section 15342 of the Elections Code is amended to read:

15342. Any name written upon a ballot for a qualified write-in candidate, including a reasonable facsimile of the spelling of a name, shall be counted for the office, if it is written in the blank space provided and voted as specified below:

(a) For voting systems in which write-in spaces appear directly below the list of candidates for that office and provide a voting space, no write-in vote shall be counted unless the voting space next to the write-in space is marked or slotted as directed in the voting instructions, except as provided in subdivision (f).

(b) For voting systems in which write-in spaces appear separately from the list of candidates for that office and do not provide a voting space, the

name of the write-in candidate, if otherwise qualified, shall be counted if it is written in the manner described in the voting instructions.

(c) The use of pressure-sensitive stickers, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the write-in candidate are not valid, and a name indicated by these methods shall not be counted.

(d) Neither a vote cast for a candidate whose name appears on the ballot nor a vote cast for a write-in candidate shall be counted if the voter has indicated, by a combination of marking and writing, a choice of more names than there are candidates to be nominated or elected to the office.

(e) All valid write-in votes shall be tabulated and certified to the elections official on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct.

(f) (1) In an election that uses a voting system described in subdivision (a), after tallying all eligible votes but prior to completion of the official canvass and the issuance of the certified statement of the results pursuant to this chapter, the elections official, upon the request of a qualified write-in candidate for an office being voted on in that election for an examination of undervotes that is received within five days of completion of the semiofficial canvass, may hand tally the remaining undervotes if any of the following is applicable:

(A) In the case of a primary election or a special election, the sum of the total number of votes cast for the write-in candidate and the total number of undervotes cast for the office but not examined pursuant to a hand tally is equal to or greater than the total number of votes cast for the candidate receiving the second highest number of votes for that office.

(B) In the case of a general election or a special runoff election, the sum of the total number of votes cast for the write-in candidate and the total number of undervotes cast for the office but not examined pursuant to a hand tally is equal to or greater than the total number of votes cast for the candidate receiving the highest number of votes for that office.

(C) In the case of an office for which a voter may vote for more than one candidate, the sum of the total number of votes cast for the write-in candidate and the total number of undervotes cast for the office but not examined pursuant to a hand tally is equal to or greater than the total number of votes cast for the candidate receiving the least number of votes that would be sufficient in order to be elected.

(2) The elections official may stop a hand tally conducted pursuant to this subdivision when the official determines that the applicable condition in any of subparagraphs (A) to (C), inclusive, of paragraph (1) is no longer applicable, or when all of the undervotes for the office have been examined.

(3) In conducting a hand tally pursuant to this subdivision, the elections official shall count a vote for the office if the intent of the voter can be determined, regardless of whether the voter has complied with the voting

instructions. The elections official shall include the results of a hand tally conducted pursuant to this subdivision in the official canvass of the election.

(4) For purposes of this subdivision, “undervote” means a ballot on which a voter failed to cast any vote for a specific office or failed to cast the maximum number of votes permitted, as detected by an electronic, mechanical, or other vote-tabulating device.

(5) Notwithstanding Section 15624, a qualified write-in candidate is not responsible for the costs of a hand tally requested pursuant to this subdivision.

(g) This section does not prohibit a request for a recount.