

AMENDED IN SENATE JUNE 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 867**

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**Introduced by Assembly Member Swanson**

February 17, 2011

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An act to amend Sections ~~3001, 3009, and 3017~~ 2223, 2224, 2225, and 2226 of, and to add Section ~~3025~~ 2227 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 867, as amended, Swanson. ~~Elections: vote by mail ballots. Voters: residency confirmation.~~

*Existing law requires the county elections official to conduct a preelection residence confirmation procedure by mailing a specified nonforwardable postcard to each registered voter of the county by the 90th day immediately prior to the direct primary election. In lieu of mailing a residency confirmation postcard, existing law permits the county elections official to conduct the residency confirmation procedure by alternative methods, including by contracting with the United States Postal Service or its licensees to obtain use of postal service change-of-address data. Existing law requires the county elections official, based on the change-of-address information received in conducting the residency confirmation, or the change-of-address information provided directly by the voter, to correct or cancel, among other things, the voter's registration.*

*This bill would permit a county elections official, in lieu of mailing a residency confirmation postcard, to contract with a consumer credit reporting agency or its licensees to obtain change-of-address data. If the county elections official contracts with a consumer credit reporting*

*agency or its licensees, this bill would require the county elections official, based on the change-of-address information received, to send a specified forwardable notice to the registered voter to enable the voter to verify or correct the address information. If the voter responds to the forwardable notice, or otherwise verifies in writing his or her new residence address, this bill would require the county elections official, as appropriate, to correct or cancel the voter's registration.*

*Existing law authorizes a county elections official, if a voter has not voted in any election within the preceding 4 years, and the residence, address, name, or party affiliation of the voter has not been updated during that time, to send an alternate residency confirmation postcard that describes the alternate residency procedure. If a county uses the alternate residency confirmation procedure, the county is required to notify all voters of the procedure in the sample ballot pamphlet or in a separate mailing. A voter in that county is also given the opportunity to vote at a statewide primary or general election between the date of the notice and the beginning of the alternate residency procedure. Existing law further authorizes a county elections official to cancel the voter registration of a voter who does not offer to vote or vote at any election between the date of the confirmation mailing and 2 federal general elections after the date of that mailing.*

*This bill would delete the provision that authorizes a county elections official to cancel the voter registration of a voter who does not offer to vote or vote within a specified time period, and would delete the requirement that a voter be given an opportunity to vote at a statewide primary or general election between the date of notice and the beginning of the alternate residency procedure.*

~~Under existing law, an application for a vote by mail ballot shall be made by a voter to an elections official having jurisdiction over the election between the 29th and 7th days prior to the election. Existing law permits an elections official to deliver a vote by mail ballot to the voter, the voter's spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same household as the voter, so long as the individual to whom the ballot is delivered signs a statement under penalty of perjury that contains the name of the voter and affirms that the person receiving the ballot is 16 years of age or older and is authorized to deliver the vote by mail ballot. Existing law permits a voter who is unable to return his or her vote by mail ballot due to illness or other physical disability to designate his or her spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same~~

~~household as the voter to return the vote by mail ballot. Except in the case of a candidate or the spouse of a candidate, existing law prohibits a person returning another voter's vote by mail ballot from being a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service.~~

~~This bill would provide that an application for a vote by mail ballot must be received by the elections official between the 29th and 7th days prior to the election. The bill would authorize a voter to designate an authorized representative in writing to an elections official to receive, return, or both receive and return, that voter's vote by mail ballot. If a voter is unable to return his or her vote by mail ballot, this bill would authorize the voter to have his or her authorized representative return the ballot to the elections official regardless of whether his or her inability to return the vote by mail ballot is due to illness or physical disability.~~

~~This bill would, except for an authorized representative of a candidate or the spouse of a candidate, prohibit a voter's authorized representative from being a candidate or the spouse of a candidate, or a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, campaign committee of a candidate, or any other group or organization at whose behest the individual designated to receive the ballot, return the ballot, or both receive and return the ballot is performing a service.~~

~~Because the bill would change the duties of 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:~~

~~Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.~~

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

1     *SECTION 1. Section 2223 of the Elections Code is amended*  
2 *to read:*

3     2223. (a) In lieu of mailing a residency confirmation postcard  
4 to each registered voter in the county, the county elections official  
5 may include the return address of the county elections official's  
6 office on the outside portion of the sample ballot or sample ballot  
7 envelope mailed to the voter ~~at any~~ *for an* election conducted  
8 within the last six months preceding the start of the confirmation  
9 process, along with the statements "Address Correction Requested"  
10 and "Notice: If the person named on the sample ballot is not at the  
11 address, please help keep the voter rolls current and save taxpayer  
12 dollars by returning this sample ballot to your mail carrier."

13     (b) ~~Any~~ *A* voter not eligible for an election during the last six  
14 months preceding the start of the confirmation process, or ~~any a~~  
15 voter not mailed a sample ballot with an address correction  
16 requested, shall have his or her address confirmed by either a  
17 residency confirmation postcard or *an address verification mailing*  
18 *conducted pursuant to this article using NCOA/Operation Mail*  
19 ~~process data pursuant to Section 2222 or consumer credit reporting~~  
20 *agency data pursuant to Section 2227.*

21     *SEC. 2. Section 2224 of the Elections Code is amended to read:*

22     2224. (a) If a voter has not voted in ~~any~~ *an* election within the  
23 preceding four years, and his or her residence address, name, or  
24 party affiliation ~~had~~ *has* not been updated during that time, the  
25 county elections official may send an alternate residency  
26 confirmation postcard. The use of this postcard may be sent  
27 subsequent to NCOA or sample ballot returns, but shall not be  
28 used in the residency confirmation process conducted under Section  
29 2220. The postcard shall be forwardable, including a postage-paid  
30 and preaddressed return form to enable the voter to verify or correct  
31 the address information, and shall be in substantially the following  
32 form:

33     "If the person named on the postcard is not at this address,  
34 PLEASE help keep the voter rolls current and save taxpayer dollars  
35 by returning this postcard to your mail carrier."

36     "IMPORTANT NOTICE"

37     "According to our records you have not voted in any election  
38 during the past four years, which may indicate that you no longer

1 reside in \_\_\_\_ County. If you continue to reside in this county you  
2 must confirm your residency address in order to remain on the  
3 active voter list and receive election materials in the mail.”

4 “If confirmation has not been received within 15 days, you may  
5 be required to provide proof of your residence address in order to  
6 vote at future elections ~~and, if you do not appear or offer to vote~~  
7 ~~at any election in the period between the date of this notice and~~  
8 ~~the second federal general election after the date of this notice,~~  
9 ~~your voter registration will be cancelled and you will have to~~  
10 ~~reregister in order to vote.~~ If you no longer live in \_\_\_\_ County,  
11 you must reregister at your new residence address in order to vote  
12 in the next election. California residents may obtain a mail  
13 registration form by calling the county elections office of the  
14 Secretary of State’s Office.”

15 (b) The use of a toll-free number to confirm the old residence  
16 address is optional. Any change to a voter’s address shall be  
17 received in writing.

18 (c) ~~Any~~A county using the alternate residency confirmation  
19 procedure shall notify all voters of the procedure in the sample  
20 ballot pamphlet or in a separate mailing. ~~The voter shall be given~~  
21 ~~an opportunity to vote at a statewide primary or general election~~  
22 ~~between the date of notice and the beginning of the alternate~~  
23 ~~residency procedure.~~

24 *SEC. 3. Section 2225 of the Elections Code is amended to read:*

25 2225. (a) Based on change-of-address data received from the  
26 United States Postal Service or its licensees *pursuant to Section*  
27 *2222*, the county elections official shall send a forwardable notice,  
28 including a postage-paid and preaddressed return form, to enable  
29 the voter to verify or correct address information.

30 Notification received through NCOA or Operation Mail that a  
31 voter has moved and has given no forwarding address shall not  
32 require the mailing of a forwardable notice to that voter.

33 (b) If *postal service* change-of-address data indicates that the  
34 voter has moved to a new residence address in the same county,  
35 the forwardable notice shall be in substantially the following form:  
36

37 “We have received notification that the voter has moved to a  
38 new residence address in \_\_\_\_ County. You will be registered to  
39 vote at your new address unless you notify our office within 15  
40 days that the address to which this card was mailed is not a change

1 of your permanent residence. You must notify our office by either  
2 returning the attached postage-paid postcard, or by calling toll  
3 free. If this is not a permanent residence, and if you do not notify  
4 us within 15 days, you may be required to provide proof of your  
5 residence address in order to vote at future elections.”

6  
7 (c) If *postal service* change-of-address data indicates that the  
8 voter has moved to a new address in another county, the  
9 forwardable notice shall be in substantially the following form:

10  
11 “We have received notification that you have moved to a new  
12 address not in \_\_\_\_ County. Please use the attached postage-paid  
13 postcard to: (1) advise us if this is or is not a permanent change of  
14 residence address, or (2) to advise us if our information is incorrect.  
15 If you do not return this card within 15 days and continue to reside  
16 in \_\_\_\_ County, you may be required to provide proof of your  
17 residence address in order to vote at future elections and, if you  
18 do not offer to vote at any election in the period between the date  
19 of this notice and the second federal general election following  
20 this notice, your voter registration will be cancelled and you will  
21 have to reregister in order to vote. If you no longer live in \_\_\_\_  
22 County, you must reregister at your new residence address in order  
23 to vote in the next election. California residents may obtain a mail  
24 registration form by calling the county elections officer or  
25 1-800-345-VOTE.”

26  
27 (d) If postal service change-of-address data received from a  
28 nonforwardable mailing indicates that a voter has moved and left  
29 no forwarding address, a forwardable notice shall be sent in  
30 substantially the following form:

31  
32 “We are attempting to verify postal notification that the voter to  
33 whom this card is addressed has moved and left no forwarding  
34 address. If the person receiving this card is the addressed voter,  
35 please confirm your continued residence or provide current  
36 residence information on the attached postage-paid postcard within  
37 15 days. If you do not return this card and continue to reside in  
38 \_\_\_\_ County, you may be required to provide proof of your  
39 residence address in order to vote at future elections and, if you  
40 do not offer to vote at any election in the period between the date

1 of this notice and the second federal general election following  
2 this notice, your voter registration will be cancelled and you will  
3 have to reregister in order to vote. If you no longer live in \_\_\_\_\_  
4 County, you must reregister at your new residence address in order  
5 to vote in the next election. California residents may obtain a mail  
6 registration form by calling the county elections office or the  
7 Secretary of State’s Office.”

8  
9 (e) The use of a toll-free number to confirm the old residence  
10 address is optional. Any change to the voter address must be  
11 received in writing.

12 *SEC. 4. Section 2226 of the Elections Code is amended to read:*

13 2226. (a) Based on change-of-address information received  
14 pursuant to Sections 2220 to 2225, inclusive, or change-of-address  
15 information provided directly by the voter, the county elections  
16 official shall take the following actions as appropriate:

17 (1) If the information indicates the voter has moved to a new  
18 address within the same county, the county elections official shall  
19 update and correct the voter’s registration.

20 (2) If the information indicates the voter has moved to a new  
21 address in another county, if the mailings have been returned as  
22 undeliverable, or if the voter fails to confirm his or her address as  
23 required by Section 2224, the county elections official may place  
24 the voter’s name on the inactive file of registered voters who do  
25 not receive election materials and are not included in calculations  
26 to determine the number of signatures required for qualification  
27 of candidates and measures, precinct size, or other election  
28 administration related processes.

29 (3) If the voter verifies in writing that he or she has moved to  
30 a residence address in another county, the county elections official  
31 shall cancel the voter registration in the county from which the  
32 voter has moved.

33 (b) The voter registration of any voter whose name has been  
34 placed on the inactive file of registered voters for failure to respond  
35 ~~to a confirmation mailing as required by Section 2224~~ or an address  
36 verification mailing required by *subdivision (a)* of Section 2225,  
37 and who does not offer to vote or vote at any election between the  
38 date of the mailing and two federal general elections after the date  
39 of that mailing, may be ~~cancelled~~ *canceled*.

1 (c) Any voter whose name has been placed on the inactive file  
2 of registered voters and offers to vote at any election between the  
3 date of the verification notice, and two federal general elections  
4 after the date of notice, or who notifies the elections official of a  
5 continued residency, shall be removed from the inactive file and  
6 placed on the active voter file.

7 (d) All address corrections, cancellations, and inactive  
8 transactions made to the voter registration file pursuant to this  
9 section shall be reflected on the voter index as required by Section  
10 2191.

11 *SEC. 5. Section 2227 is added to the Elections Code, to read:*

12 *2227. (a) In lieu of mailing a residency confirmation postcard,*  
13 *as prescribed in subdivision (a) of Section 2220, the county*  
14 *elections official may contract with a consumer credit reporting*  
15 *agency or its licensees to obtain use of change-of-address data in*  
16 *accordance with this section.*

17 *(b) If the county elections official contracts with a consumer*  
18 *credit reporting agency or its licensees pursuant to subdivision*  
19 *(a), all of the following shall occur:*

20 *(1) For each registered voter in the county, the county elections*  
21 *official shall initiate a search for change-of-address data with the*  
22 *consumer credit reporting agency or its licensees by providing the*  
23 *name and residence address of each registered voter in the county*  
24 *to the consumer credit reporting agency or its licensees.*

25 *(2) The consumer credit reporting agency or its licensees shall*  
26 *search their databases for each name and address provided by the*  
27 *county elections official and shall report to the county elections*  
28 *official any information indicating that the registered voter*  
29 *changed his or her residence address.*

30 *(c) (1) Notwithstanding Section 2194 of this code or Section*  
31 *6254.4 of the Government Code, and except as provided in*  
32 *paragraph (2), a county elections official may disclose a registered*  
33 *voter's name and residence address to a consumer credit reporting*  
34 *agency or its licensees pursuant to, and in accordance with, this*  
35 *section.*

36 *(2) A county elections official shall not disclose to a consumer*  
37 *credit reporting agency or its licensees the name and residence*  
38 *address of a registered voter if that information is deemed*  
39 *confidential pursuant to Section 2166, 2166.5, or 2166.7 of this*

1 *code, or Chapter 3.1 (commencing with Section 6205) of Division*  
2 *7 of Title 1 of the Government Code.*

3 *(d) A consumer credit reporting agency or its licensees shall*  
4 *use the information provided by a county elections official only*  
5 *pursuant to paragraph (2) of subdivision (b), and shall not retain*  
6 *any information received from the county elections official pursuant*  
7 *to this section.*

8 *(e) Based on change-of-address data received from a consumer*  
9 *credit reporting agency or its licensees, the county elections official*  
10 *shall send a forwardable notice, including a postage-paid and*  
11 *preaddressed return form, which may be in the form of a postcard,*  
12 *to the registered voter to enable the voter to verify or correct*  
13 *address information. The forwardable notice shall be in*  
14 *substantially the following form:*

15  
16 *“We have received notification that you have moved to a new*  
17 *residence address in \_\_\_\_\_ County. You will remain registered to*  
18 *vote at your old address unless you notify our office that the*  
19 *address to which this card was mailed is a change of your*  
20 *permanent residence. Please notify our office in writing by*  
21 *returning the attached postage-paid postcard. If this is not a*  
22 *permanent residence, and you do not wish to change your address*  
23 *for voting purposes, please disregard this notice.”*  
24

25 *(f) The county elections official shall take all of the following*  
26 *actions as appropriate:*

27 *(1) If a voter responds to the forwardable notice sent pursuant*  
28 *to subdivision (e) or otherwise verifies in a signed writing that he*  
29 *or she has moved to a new residence address within the same*  
30 *county, the county elections official shall verify the signature on*  
31 *the response by comparing it to the signature on file for the voter*  
32 *and, if appropriate, correct the voter’s registration with the new*  
33 *residence address.*

34 *(2) If a voter responds to the forwardable notice sent pursuant*  
35 *to subdivision (e) or otherwise verifies in a signed writing that he*  
36 *or she has moved to a new residence address in another county,*  
37 *the county elections official shall verify the signature on the*  
38 *response by comparing it to the signature on file for the voter and,*  
39 *if appropriate, cancel the voter’s registration in the county from*  
40 *which the voter has moved.*

1 (3) If a voter does not respond to the forwardable notice sent  
2 pursuant to subdivision (e) and does not otherwise verify in a  
3 signed writing that he or she has moved to a new residence  
4 address, the elections official shall not place the voter's name on  
5 the inactive file of registered voters or cancel the voter registration.

6 (g) For purposes of this section, "consumer credit reporting  
7 agency" has the same meaning as set forth in subdivision (d) of  
8 Section 1785.3 of the Civil Code.

9 SECTION 1. Section 3001 of the Elections Code is amended  
10 to read:

11 3001. ~~Except as provided in Chapter 3 (commencing with~~  
12 ~~Section 3200) and Sections 3007.5 and 3007.7, application for a~~  
13 ~~vote by mail ballot shall be made in writing to and received by the~~  
14 ~~elections official having jurisdiction over the election between the~~  
15 ~~29th and the 7th day prior to the election. The application shall be~~  
16 ~~signed by the applicant and shall show his or her place of residence.~~  
17 ~~An application received by the elections official prior to the 29th~~  
18 ~~day shall be kept and processed during the application period.~~

19 SEC. 2. Section 3009 of the Elections Code is amended to read:

20 3009. (a) ~~Upon receipt of a vote by mail ballot application~~  
21 ~~signed by the voter that arrives within the proper time, the elections~~  
22 ~~official should determine if the signature and residence address~~  
23 ~~on the ballot application appear to be the same as that on the~~  
24 ~~original affidavit of registration. The elections official may make~~  
25 ~~this signature check upon receiving the voted ballot, but the~~  
26 ~~signature must be compared before the vote by mail voter ballot~~  
27 ~~is canvassed.~~

28 (b) ~~If the elections official deems the applicant entitled to a vote~~  
29 ~~by mail ballot, he or she shall deliver by mail or in person the~~  
30 ~~appropriate ballot. The ballot may be delivered to the applicant or~~  
31 ~~an authorized representative of the applicant, except that in no case~~  
32 ~~shall the ballot be delivered to an individual under 16 years of age.~~  
33 ~~The elections official shall deliver the vote by mail ballot to the~~  
34 ~~authorized representative of the applicant only if that person signs~~  
35 ~~a statement attested to under penalty of perjury that provides the~~  
36 ~~name of the applicant, and affirms that the person receiving the~~  
37 ~~ballot is 16 years of age or older and is authorized by the applicant~~  
38 ~~to deliver the vote by mail ballot.~~

39 (e) (1) ~~If the elections official determines that an application~~  
40 ~~does not contain all of the information prescribed in Section 3001~~

1 or 3006, or for any other reason is defective, and the elections  
2 official is able to ascertain the voter's address, the elections official  
3 shall, within one working day of receiving the application, mail  
4 the voter a vote by mail voter's ballot together with a notice. The  
5 notice shall inform the voter that the voter's vote by mail ballot  
6 shall not be counted unless the applicant provides the elections  
7 official with the missing information or corrects the defects prior  
8 to, or at the time of, receipt of the voter's executed vote by mail  
9 ballot. The notice shall specifically inform the voter of the  
10 information that is required or the reason for the defects in the  
11 application, and shall state the procedure necessary to remedy the  
12 defective application.

13 (2) If the voter substantially complies with the requirements  
14 contained in the notice provided by the elections official, the  
15 voter's ballot shall be counted.

16 (3) In determining from the records of registration if the  
17 signature and residence address on the application appear to be  
18 the same as those on the original affidavit of registration, the  
19 elections official or registrar of voters may use the duplicate file  
20 of affidavits of registered voters or the facsimiles of voters'  
21 signatures, provided that the method of preparing and displaying  
22 the facsimiles complies with law.

23 SEC. 3. Section 3017 of the Elections Code is amended to read:

24 3017. (a) A vote by mail ballot cast under this division shall  
25 be voted on or before the day of the election. After marking the  
26 ballot, the vote by mail voter shall do either of the following: (1)  
27 return the ballot by mail or in person to the elections official from  
28 whom it came or (2) return the ballot in person to a member of a  
29 precinct board at a polling place within the jurisdiction. However,  
30 a vote by mail voter who is unable to return the ballot may  
31 designate an authorized representative to return the ballot to the  
32 elections official from whom it came or to the precinct board at  
33 any polling place within the jurisdiction. The ballot must, however,  
34 be received by either the elections official from whom it came or  
35 the precinct board before the close of the polls on election day.

36 (b) The elections official shall establish procedures to ensure  
37 the secrecy of a ballot returned to a precinct polling place and the  
38 security, confidentiality, and integrity of personal information  
39 collected, stored, or otherwise used pursuant to this section.

1     ~~(e) On or before March 1, 2008, the elections official shall~~  
 2     ~~establish procedures to track and confirm the receipt of voted vote~~  
 3     ~~by mail ballots and to make this information available by means~~  
 4     ~~of online access using the county’s elections division Internet Web~~  
 5     ~~site. If the county does not have an elections division Internet Web~~  
 6     ~~site, the elections official shall establish a toll-free telephone~~  
 7     ~~number that may be used to confirm the date a voted vote by mail~~  
 8     ~~ballot was received.~~

9     ~~(d) The provisions of this section are mandatory, not directory,~~  
 10    ~~and no ballot shall be counted if it is not delivered in compliance~~  
 11    ~~with this section.~~

12    ~~SEC. 4. Section 3025 is added to the Elections Code, to read:~~

13    ~~3025. For purposes of this chapter, “authorized representative”~~  
 14    ~~means a person who is designated in writing by a voter to the~~  
 15    ~~elections official to receive, return, or both receive and return the~~  
 16    ~~voter’s vote by mail ballot. Except for an authorized representative~~  
 17    ~~of a candidate or the spouse of a candidate, an authorized~~  
 18    ~~representative shall not be a candidate or the spouse of a candidate,~~  
 19    ~~or a paid or volunteer worker of a general purpose committee,~~  
 20    ~~controlled committee, independent expenditure committee, political~~  
 21    ~~party, campaign committee of a candidate, or any other group or~~  
 22    ~~organization at whose behest the individual designated to receive~~  
 23    ~~the ballot, return the ballot, or both receive and return the ballot~~  
 24    ~~is performing a service.~~

25    ~~SEC. 5. If the Commission on State Mandates determines that~~  
 26    ~~this act contains costs mandated by the state, reimbursement to~~  
 27    ~~local agencies and school districts for those costs shall be made~~  
 28    ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
 29    ~~4 of Title 2 of the Government Code.~~