

ASSEMBLY BILL

No. 1436

Introduced by Assembly Member Feuer

January 4, 2012

An act to amend Sections 2107, 14310, and 18001 of, and to add Article 4.5 (commencing with Section 2170) to Chapter 2 of Division 2 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1436, as introduced, Feuer. Voter registration.

Existing law establishes procedures regarding the registration of voters. Under existing law, a person may not be registered to vote except by affidavit of registration, and a voter may not vote in an election unless his or her affidavit of registration is executed and received by the county elections official on or before the 15th day prior to the election. Existing law permits any registered voter to vote by a vote by mail ballot, and further permits any voter using a vote by mail ballot to vote the ballot at the office of the elections official beginning 29 days before the election.

This bill would establish conditional voter registration, using an affidavit of registration, whereby a person would be permitted to register to vote after the 15th day prior to an election or on election day, and cast a provisional ballot to be counted if the conditional voter registration is deemed effective. This bill would provide that a conditional voter registration shall be deemed effective only if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the registrant has provided a form of identification deemed acceptable under the Help America Vote Act. If a conditional voter registration is not deemed

effective pursuant to these new provisions, the elections official would be required to process the affidavit of registration as specified and, if the registrant meets all other eligibility requirements to vote, the registration would be deemed effective in forthcoming elections.

The bill would require the county elections official to offer conditional voter registration and provisional voting at its permanent offices, and would permit the official to offer this registration and voting at satellite offices on election day, in accordance with specified procedures. The bill would also require the county elections official to cancel, as specified, duplicate voter registrations that may arise due to conditional voter registration.

Existing law provides that upon conviction for a crime pertaining to an election for which no fine is prescribed, the court may impose, in addition to any prescribed imprisonment, a fine on the offender not more than \$1,000 for a misdemeanor or \$10,000 for a felony.

This bill would increase the amount of that fine for a felony to \$25,000.

By creating new duties for local elections officials, the bill 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.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 2107 of the Elections Code is amended
- 2 to read:
- 3 2107. (a) Except as provided in subdivision (b) *and Article*
- 4 *4.5 (commencing with Section 2170)*, the county elections official
- 5 shall accept affidavits of registration at all times except during the
- 6 14 days immediately preceding any election, when registration
- 7 shall cease for that election as to electors residing in the territory
- 8 within which the election is ~~to be~~ held. Transfers of registration
- 9 for an election may be made from one precinct to another precinct

1 in the same county at any time ~~when~~ registration is in progress in
2 the precinct to which the elector seeks to transfer.

3 (b) The county elections official shall accept an affidavit of
4 registration executed as part of a voter registration card in the
5 forthcoming election if the affidavit is executed on or before the
6 15th day prior to the election, and if any of the following apply:

7 (1) ~~The A~~ mailed affidavit is postmarked on or before the 15th
8 day prior to the election and received by mail by the county
9 elections official *before the close of the polls on election day*.

10 (2) The affidavit is submitted to the Department of Motor
11 Vehicles or accepted by any other public agency designated as a
12 voter registration agency pursuant to the National Voter
13 Registration Act of 1993 (42 U.S.C. Sec. 1973gg) *on or before*
14 *the 15th day* prior to the election.

15 (3) The affidavit is delivered to the county elections official by
16 means other than those described in paragraphs ~~(2)~~ (1) and ~~(3)~~ (2)
17 on or before the 15th day prior to the election.

18 SEC. 2. Article 4.5 (commencing with Section 2170) is added
19 to Chapter 2 of Division 2 of the Elections Code, to read:

20
21 Article 4.5. Conditional Voter Registration

22
23 2170. (a) “Conditional voter registration” means a properly
24 executed affidavit of registration, which is delivered by the
25 registrant to a county elections official during the 14 days
26 immediately preceding an election or on election day and which
27 may be deemed effective pursuant to this article after the elections
28 official processes the affidavit, determines the registrant’s
29 eligibility to register, and validates the registrant’s identification,
30 as specified in subdivision (c).

31 (b) In addition to other methods of voter registration provided
32 by this code, an elector who is otherwise qualified to register to
33 vote under this code and Section 2 of Article II of the California
34 Constitution may complete a conditional voter registration and
35 cast a provisional ballot during the 14 days immediately preceding
36 an election or on election day pursuant to this article.

37 (c) A conditional voter registration shall be deemed effective
38 only if the county elections official is able to determine before or
39 during the canvass period for the election that the registrant is
40 eligible to register to vote and has provided at least one form of

1 identification deemed acceptable under the Help America Vote
2 Act of 2002 (42 U.S.C. Sec. 15301 et seq.). If the registrant's
3 eligibility cannot be validated before or during the canvass period
4 for the election, the conditional registration shall be deemed to be
5 not effective.

6 (d) The county elections official shall offer conditional voter
7 registration and provisional voting pursuant to this article, in
8 accordance with the following procedures:

9 (1) The elections official shall provide conditional voter
10 registration and provisional voting pursuant to this article at all
11 permanent offices of the county elections official in the county.

12 (2) The elections official shall advise registrants that a
13 conditional voter registration will be effective only if the registrant
14 is determined to be eligible to register to vote and the registrant's
15 identification can be validated before or during the canvass period
16 for the election.

17 (3) The elections official shall conduct the receipt and handling
18 of each conditional voter registration and corresponding provisional
19 ballot in a manner that protects the secrecy of the ballot and allows
20 the elections official to process the registration, to determine the
21 registrant's eligibility to register, and to validate the registrant's
22 identification before counting or rejecting the corresponding
23 provisional ballot.

24 (4) After receiving a conditional voter registration, the elections
25 official shall process the registration, determine the registrant's
26 eligibility to register, and attempt to validate the identification.
27 The conditional registration shall be deemed effective if the
28 registrant is determined to be eligible to register and the
29 identification is validated and the registrant is otherwise qualified
30 to register to vote.

31 (5) If a conditional registration is deemed effective, the elections
32 official shall include the corresponding provisional ballot in the
33 official canvass.

34 (6) If a conditional voter registration is not deemed effective
35 pursuant to this article, the elections official shall process the
36 affidavit of registration pursuant to Sections 2102 and 2107 and,
37 provided that the registrant meets all other eligibility requirements
38 to register to vote, the registration shall be deemed effective in
39 forthcoming elections.

1 (e) The county elections official may offer conditional voter
2 registration and provisional voting pursuant to this article on
3 election day at satellite offices of the county elections office, in
4 accordance with the procedures specified in paragraphs (2) to (6),
5 inclusive, of subdivision (d).

6 2171. (a) A conditional voter registration accepted under this
7 article shall include the information required by Article 4
8 (commencing with Section 2150).

9 (b) A conditional voter registration accepted under this article
10 shall be processed in accordance with general voter registration
11 procedures provided in this chapter and established by regulations
12 adopted by the Secretary of State.

13 (c) A provisional ballot cast under this article shall be subject
14 to the requirements for provisional voting in Article 5 (commencing
15 with Section 14310) of Chapter 3 of Division 14.

16 2172. (a) The elections official shall cancel any duplicate voter
17 registrations that may exist as a result of a conditional registration
18 deemed effective and shall cancel the duplicate registrations in
19 accordance with Chapter 3 (commencing with Section 2200).

20 (b) If it appears that a registrant may have committed fraud
21 within the meaning of Section 18560, the elections official shall
22 immediately notify in writing both the district attorney and the
23 Secretary of State.

24 SEC. 3. Section 14310 of the Elections Code is amended to
25 read:

26 14310. (a) At all elections, a voter claiming to be properly
27 registered, but whose qualification or entitlement to vote cannot
28 be immediately established upon examination of the index of
29 registration for the precinct or upon examination of the records on
30 file with the county elections official, shall be entitled to vote a
31 provisional ballot as follows:

32 (1) An elections official shall advise the voter of the voter's
33 right to cast a provisional ballot.

34 (2) The voter shall be provided a provisional ballot, written
35 instructions regarding the process and procedures for casting the
36 ~~provisional~~ ballot, and a written affirmation regarding the voter's
37 registration and eligibility to vote. The written instructions shall
38 include the information set forth in subdivisions (c) and (d).

39 (3) The voter shall be required to execute, in the presence of an
40 elections official, the written affirmation stating that the voter is

1 eligible to vote and registered in the county where the voter desires
 2 to vote.

3 (b) Once voted, the voter’s ballot shall be sealed in a provisional
 4 ballot envelope, and the ballot in its envelope shall be deposited
 5 in the ballot box. All provisional ballots voted shall remain sealed
 6 in their envelopes for return to the elections official in accordance
 7 with the elections official’s instructions. The provisional ballot
 8 envelopes specified in this subdivision shall be *of* a color different
 9 than the color of, but printed substantially similar to, the envelopes
 10 used for vote by mail ballots, and shall be completed in the same
 11 manner as vote by mail envelopes.

12 (c) (1) During the official canvass, the elections official shall
 13 examine the records with respect to all provisional ballots cast.
 14 Using the procedures that apply to the comparison of signatures
 15 on vote by mail ballots, the elections official shall compare the
 16 signature on each provisional ballot envelope with the signature
 17 on the voter’s affidavit of registration. If the signatures do not
 18 compare or the provisional ballot envelope is not signed, the ballot
 19 shall be rejected. A variation of the signature caused by the
 20 substitution of initials for the first or middle name, or both, shall
 21 not invalidate the ballot.

22 (2) (A) *Provisional ballots shall not be included in any*
 23 *semiofficial or official canvass, except under one or more of the*
 24 *following conditions:*

25 (i) *The elections official establishes prior to the completion of*
 26 *the official canvass, from the records in his or her office, the*
 27 *claimant’s right to vote.*

28 (ii) *The provisional ballot has been cast and included in the*
 29 *canvass pursuant to Article 4.5 (commencing with Section 2170)*
 30 *of Chapter 2 of Division 2.*

31 (iii) *Upon the order of a superior court in the county of the*
 32 *voter’s residence.*

33 (2)

34 (B) ~~Provisional ballots shall not be included in any semiofficial~~
 35 ~~or official canvass, except upon: (A) the elections official’s~~
 36 ~~establishing prior to the completion of the official canvass, from~~
 37 ~~the records in his or her office, the claimant’s right to vote; or (B)~~
 38 ~~the order of a superior court in the county of the voter’s residence.~~

39 A voter may seek the court order specified in this paragraph
 40 regarding his or her own ballot at any time prior to completion of

1 the official canvass. Any judicial action or appeal shall have
2 priority over all other civil matters. No fee shall be charged to the
3 claimant by the clerk of the court for services rendered in an action
4 under this section.

5 (3) The provisional ballot of a voter who is otherwise entitled
6 to vote shall not be rejected because the voter did not cast his or
7 her ballot in the precinct to which he or she was assigned by the
8 elections official.

9 (A) If the ballot cast by the voter contains the same candidates
10 and measures on which the voter would have been entitled to vote
11 in his or her assigned precinct, the elections official shall count
12 the votes for the entire ballot.

13 (B) If the ballot cast by the voter contains candidates or
14 measures on which the voter would not have been entitled to vote
15 in his or her assigned precinct, the elections official shall count
16 only the votes for the candidates and measures on which the voter
17 was entitled to vote in his or her assigned precinct.

18 (d) The Secretary of State shall establish a free access system
19 that any voter who casts a provisional ballot may access to discover
20 whether the voter's provisional ballot was counted and, if not, the
21 reason why it was not counted.

22 (e) The Secretary of State may adopt appropriate regulations
23 for purposes of ensuring the uniform application of this section.

24 (f) This section shall apply to any vote by mail voter described
25 by Section 3015 who is unable to surrender his or her unvoted vote
26 by mail voter's ballot.

27 (g) Any existing supply of envelopes marked "special challenged
28 ballot" may be used until the supply is exhausted.

29 SEC. 4. Section 18001 of the Elections Code is amended to
30 read:

31 18001. Upon a conviction for any crime punishable by
32 imprisonment in any jail or prison, in relation to which no fine is
33 herein prescribed, the court may impose a fine on the offender not
34 exceeding one thousand dollars (\$1,000) in cases of misdemeanors
35 or ~~ten~~ *up to twenty-five* thousand dollars ~~(\$10,000)~~ *(\$25,000)* in
36 cases of felonies, in addition to the imprisonment prescribed.

37 SEC. 5. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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