

AMENDED IN SENATE MAY 28, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1135**

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**Introduced by Assembly Member Mullin**

February 22, 2013

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An act to amend Section 3106 of, and to repeal and add Section 3019 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as amended, Mullin. Vote by mail ballots: signature verification.

Existing law sets forth procedures for processing vote by mail ballots and requires that a county elections official, upon receiving a vote by mail ballot, compare the signature on the vote by mail ballot's identification envelope with the signature on the voter's affidavit of registration or the signature on the voter's application for a vote by mail ballot, as specified.

This bill would revise and recast these provisions and would provide that a county elections official would also be permitted to compare the signature on the identification envelope with the signature appearing on any *specified* supporting document that contains the voter's signature and is part of the voter's registration record.

Existing law sets forth procedures for voting by military or overseas voters, as defined, and permits a military or overseas voter to return his or her ballot by facsimile transmission, accompanied by an oath of voter declaration that includes the voter's signature. Existing law requires that a county elections official, upon receiving the ballot of a military

or overseas voter returned by facsimile transmission, compare the signature on the oath of voter declaration with the signature on the voter’s affidavit of registration.

This bill would provide that a county elections official would also be permitted to compare the signature on the oath of voter declaration with the signature appearing on any *specified* supporting document that contains the voter’s signature and is part of the voter’s registration record.

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

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

- 1 SECTION 1. Section 3019 of the Elections Code is repealed.
- 2 SEC. 2. Section 3019 is added to the Elections Code, to read:
- 3 3019. (a) Upon receipt of a vote by mail ballot, the elections
- 4 official shall compare the signature on the identification envelope
- 5 with any of the following to determine whether the signatures
- 6 compare:
- 7 (1) The signature appearing on the voter’s affidavit of
- 8 registration.
- 9 (2) The signature appearing on the voter’s vote by mail ballot
- 10 application, provided the elections official has compared the
- 11 signature on the voter’s vote by mail ballot application with the
- 12 signature on the voter’s affidavit of registration pursuant to Section
- 13 3009.
- 14 (3) The signature appearing on any *one of the following*
- 15 ~~supporting document~~ *documents* that contains the voter’s signature
- 16 and is part of the voter’s registration ~~record~~ *record*:
- 17 (A) *A form for use by a military or overseas voter pertaining to*
- 18 *the voter’s identity, eligibility to vote, and status as a military or*
- 19 *overseas voter, as specified in Section 3101.*
- 20 (B) *A form designed to permit a voter to opt out of receiving*
- 21 *election materials, as specified in Section 13300.7.*
- 22 (C) *A form designed to indicate a voter’s preference for ballot*
- 23 *materials in a language other than English.*
- 24 (D) *A form containing corrected voter information and submitted*
- 25 *at a polling place.*
- 26 (E) *A form confirming a voter’s change of address or residency*
- 27 *information.*

1 (b) In comparing signatures pursuant to subdivision (a), the  
 2 elections official may use the duplicate file of affidavits of  
 3 registered voters or facsimiles of voters' signatures, provided that  
 4 the method of preparing and displaying the facsimiles complies  
 5 with the law.

6 (c) (1) If upon conducting the comparison of signatures pursuant  
 7 to subdivision (a) the elections official determines that the  
 8 signatures compare, he or she shall deposit the ballot, still in the  
 9 identification envelope, in a ballot container in his or her office.

10 (2) If upon conducting the comparison of signatures pursuant  
 11 to subdivision (a) the elections official determines that the  
 12 signatures do not compare, the identification envelope shall not  
 13 be opened and the ballot shall not be counted. The cause of the  
 14 rejection shall be written on the face of the identification envelope.

15 (d) The variation of a signature caused by the substitution of  
 16 initials for the first or middle name, or both, shall not be grounds  
 17 for the elections official to determine that the signatures do not  
 18 compare.

19 (e) A ballot shall not be removed from its identification envelope  
 20 until the time for processing ballots. A ballot shall not be rejected  
 21 for cause after the identification envelope has been opened.

22 SEC. 3. Section 3106 of the Elections Code is amended to read:

23 3106. (a) A military or overseas voter who is living outside  
 24 of the territorial limits of the United States or the District of  
 25 Columbia, or is called for military service within the United States  
 26 on or after the final date to make application for a vote by mail  
 27 ballot, may return his or her ballot by facsimile transmission. To  
 28 be counted, the ballot returned by facsimile transmission shall be  
 29 received by the voter's elections official no later than the closing  
 30 of the polls on election day and shall be accompanied by an  
 31 identification envelope containing all of the information required  
 32 by Section 3011 and an oath of voter declaration in substantially  
 33 the following form:

34  
 35 OATH—"OATH OF VOTER

36 I, \_\_\_\_\_, acknowledge that by returning my voted  
 37 ballot by facsimile transmission I have waived my right to have my ballot  
 38 kept secret. Nevertheless, I understand that, as with any vote by mail  
 39 voter, my signature, whether on this oath of voter form or my identification  
 40 envelope, will be permanently separated from my voted ballot to maintain

1 its secrecy at the outset of the tabulation process and thereafter.

2

3 My residence address is \_\_\_\_\_.  
4 (Street Address) (City) (ZIP Code)

5

6 My current mailing address is \_\_\_\_\_.  
7 (Street Address) (City) (ZIP Code)

8

9 My email address is \_\_\_\_\_. My facsimile transmission  
10 number is \_\_\_\_\_.

11

12 I am a resident of \_\_\_\_\_ County, State of California, or am qualified  
13 as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of  
14 the Elections Code and I have not applied, nor intend to apply, for a vote by  
15 mail ballot from any other jurisdiction for the same election.

16

17 I declare under penalty of perjury under the laws of the State of California  
18 that the foregoing is true and correct.

19

20 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

21

22 (Signature) \_\_\_\_\_  
23 ~~voter~~ (voter) (power of attorney cannot be accepted)

24

25 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE  
26 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND  
27 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED  
28 BY FACSIMILE TRANSMISSION.”

29

30 (b) Notwithstanding the voter’s waiver of the right to a secret  
31 ballot, each elections official shall adopt appropriate procedures  
32 to protect the secrecy of ballots returned by facsimile transmission.

33

34 (c) Upon receipt of a ballot returned by facsimile transmission,  
35 the elections official shall determine the voter’s eligibility to vote  
36 by comparing the signature on the return information with the  
37 signature on the voter’s affidavit of registration or any supporting  
38 document that contains the voter’s signature and is part of the  
voter’s registration record, *in accordance with Section 3019*. The

1 ballot shall be duplicated and all materials preserved according to  
2 procedures set forth in this code.  
3 (d) Notwithstanding subdivision (a), a military or overseas voter  
4 who is permitted to return his or her ballot by facsimile  
5 transmission is, nonetheless, encouraged to return his or her ballot  
6 by mail or in person if possible. A military or overseas voter should  
7 return a ballot by facsimile transmission only if doing so is  
8 necessary for the ballot to be received before the close of polls on  
9 election day.

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