

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1135**

**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 a form issued by an elections official that contains the voter's signature, that is part of the voter's registration record, and that the elections official has determined meets specified criteria.

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 the form issued by the elections official that is described above.

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 Section 3019 of the Elections Code is repealed.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~~ *either* of the following to determine whether the signatures
- 6 compare:
- 7 (1) The signature appearing on the voter’s affidavit of
- 8 registration or any previous affidavit of registration of the voter.
- 9 (2) The signature appearing on a form issued by an elections
- 10 official that contains the voter’s signature, that is part of the voter’s
- 11 registration record, and that the elections official has determined
- 12 compares with the signature on the voter’s affidavit of registration
- 13 or any previous affidavit of registration of the voter. *The elections*
- 14 *official may make this determination by reviewing a series of*
- 15 *signatures appearing on official forms in the voter’s registration*
- 16 *record that have been determined to compare, that demonstrates*
- 17 *the progression of the voter’s signature, and makes evident that*
- 18 *the signature on the identification envelope is that of the voter.*
- 19 ~~(3) The signature appearing on a form issued by an elections~~
- 20 ~~official that contains the voter’s signature, that is part of the voter’s~~
- 21 ~~registration record, and that the elections official has determined~~
- 22 ~~compares with the signature on the voter’s affidavit of registration~~
- 23 ~~or any previous affidavit of registration of the voter through a~~

1 series of signatures in the voter's registration record that have been  
2 determined to compare.

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

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

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

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

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

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

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

36  
37 "OATH OF VOTER

38 I, \_\_\_\_\_, acknowledge that by returning my voted  
39 ballot by facsimile transmission I have waived my right to have my ballot  
40 kept secret. Nevertheless, I understand that, as with any vote by mail

1 voter, my signature, whether on this oath of voter form or my identification  
2 envelope, will be permanently separated from my voted ballot to maintain  
3 its secrecy at the outset of the tabulation process and thereafter.

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

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

10  
11 My email address is \_\_\_\_\_. My facsimile transmission  
12 number is \_\_\_\_\_.

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

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

21  
22 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

23  
24 (Signature) \_\_\_\_\_  
25 (voter) (power of attorney cannot be accepted)

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

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

35 (c) Upon receipt of a ballot returned by facsimile transmission,  
36 the elections official shall determine the voter’s eligibility to vote  
37 by comparing the signature on the return information with the  
38 signature on the voter’s affidavit of registration or any signature  
39 permitted for comparison under Section 3019. The ballot shall be

1 duplicated and all materials preserved according to procedures set  
2 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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