

Assembly Bill No. 1417

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 303.3, 3004, 3114, 3122, 3201, 3203, 10735, 13306, 13309, and 19206 of, to add Section 8147.5 to, and to repeal Section 13301 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1417, Committee on Elections and Redistricting. Elections.

(1) Existing law defines a “ballot marking system” as any mechanical, electromechanical, or electronic system and its software that is used for the sole purpose of marking a ballot for a special absentee voter, as specified. Existing law requires a county elections official to place a notice in any office within the county, as specified, to inform potential special absentee voters of their right to a vote by mail voter’s ballot and where registration materials and application forms can be obtained.

This bill would revise those provisions by replacing the references to a special absentee voter with a military or overseas voter.

(2) Existing law regulates the voting procedures for military or overseas voters and provides that a military or overseas voter has the right to register for, and to vote by a vote by mail ballot in, any election within the state. Existing law requires an elections official, not sooner than 60 days but not later than 45 days before an election or, if the 45th day before the election is a weekend or holiday, not later than the business day preceding the 45th day, to transmit a ballot and balloting materials to each military or overseas voter who by that date submits a valid ballot application.

This bill would eliminate the requirement that, if the 45th day before the election is a weekend or holiday, the elections official transmit a ballot and balloting materials to the military or overseas voter not later than the business day preceding the 45th day.

(3) Under existing law, if a mistake or omission of a military or overseas voter in completing a document does not prevent determining whether the military or overseas voter is eligible to vote, the mistake or omission does not invalidate the document. Provisions of existing law specify that the failure to satisfy a nonsubstantive requirement does not invalidate a document

submitted by a military or overseas voter, and that notarization is not required for the execution of a document.

This bill would delete those provisions.

(4) Existing law permits any voter to apply for permanent absent voter status if the voter completes an application containing the required information in accordance with specified statutory provisions and establishes provisions applicable to absent voters and permanent absent voters. Existing law requires, upon receipt of an application for permanent vote by mail status, the county elections official to process the application in the same manner as an application for a vote by mail ballot, or, in the case of an application made pursuant to specified provisions of law, in the same manner as an application for a special absent voter ballot or overseas ballot.

This bill would correct erroneous cross-references pertaining to applications for permanent vote by mail status.

(5) Existing law requires the Secretary of State, at least 5 days prior to sending county elections officials a certified list of candidates for each partisan office or voter-nominated office at a primary election, to notify each candidate for those offices of the names, addresses, offices, occupations, and party preferences of all other persons who have filed for the same office. Existing law authorizes a candidate to change his or her ballot designation at least 98 days prior to the general election, as specified.

This bill would require the Secretary of State, not less than 73 days, and not more than 98 days, before a general election, to notify each candidate for a partisan office or voter-nominated office of the names, addresses, offices, ballot designation, and party preferences of all other persons whose names are to appear on the ballot for the same office at the general election.

(6) Existing law establishes the procedures for nomination and election of candidates at a special election to fill vacancies in the House of Representatives caused by a catastrophe. Existing law requires a county elections official, under specified circumstances, to deliver vote by mail ballots requested pursuant to existing statutory provisions pertaining to military or overseas voters within 15 days, as specified. Existing law requires a vote by mail ballot cast pursuant to the provisions pertaining to military or overseas voters to be received by the elections official not later than 45 days after the date on which the ballot was transmitted to the voter.

Existing law permits the Secretary of State to extend specified election deadlines for a reasonable period of time to facilitate the tabulating and processing of vote by mail ballots cast by military or overseas voters.

This bill would correct erroneous statutory cross-references pertaining to vote by mail ballots cast by military or overseas voters.

(7) Existing law requires the county elections official to prepare a list of candidates for presidential delegates for each political party, submit a copy of the list to the chairperson of the county central committee of the political party, and post a copy of the list in the elections official's office.

This bill would repeal these requirements.

(8) Existing law requires an elections official to send to each voter, together with a sample ballot, a voter's pamphlet that contains the written statements of candidates for nonpartisan elective office in a local agency. Existing law authorizes local agencies to charge to the candidate in advance a fee to cover the costs of printing, handling, translating, and mailing the candidate statement. Existing law exempts indigent candidates from paying the fee in advance, but specifically provides that nothing prohibits an elections official from billing the candidate after the election.

This bill would provide instead that nothing prohibits the local agency from billing the candidate after the election.

(9) Existing law requires the Secretary of State to approve voting systems as meeting specified criteria. Existing law prohibits a jurisdiction purchasing or using a voting system that has not been approved by the secretary. Existing law authorizes the secretary to employ not more than 3 expert technicians to assist the secretary in examining voting systems that seek approval for use.

This bill would remove the limitation on the number of technicians that the secretary may employ for these purposes. The bill would also authorize the secretary to employ technician firms to assist the secretary in examining voting systems. The bill would provide that this provision would become inoperative if Senate Bill 360 and this bill are both chaptered and become effective January 1, 2014.

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

SECTION 1. Section 303.3 of the Elections Code is amended to read:

303.3. “Ballot marking system” means a mechanical, electromechanical, or electronic system and its software that is used for the sole purpose of marking a ballot for a military or overseas voter and is not connected to a voting system at any time.

SEC. 2. Section 3004 of the Elections Code is amended to read:

3004. A county elections official shall place a notice in an office within the county where applications are taken for federal passports or where military enlistments are received to inform potential military or overseas voters of their right to a vote by mail voter’s ballot and where to obtain registration materials and application forms.

SEC. 3. Section 3114 of the Elections Code is amended to read:

3114. (a) For an election for which this state has not received a waiver pursuant to the Military and Overseas Voter Empowerment Act (42 U.S.C. Sec. 1973ff et seq.), not sooner than 60 days but not later than 45 days before the election, the elections official shall transmit a ballot and balloting materials to each military or overseas voter who by that date submits a valid ballot application pursuant to Section 3102.

(b) If a valid ballot application from a military or overseas voter arrives after the 45th day before the election, the elections official charged with distributing a ballot and balloting materials to that voter shall transmit them to the voter as soon as practicable after the application arrives.

SEC. 4. Section 3122 of the Elections Code is amended to read:

3122. (a) If a military or overseas voter’s mistake or omission in the completion of a document under this chapter does not prevent determining whether a military or overseas voter is eligible to vote, the mistake or omission does not invalidate the document. In a write-in ballot authorized by this chapter, if the intention of the voter is discernible under this state’s uniform definition of what constitutes a vote and the ballot is eligible to be counted pursuant to Sections 3019 and 3106, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

(b) An authentication, other than the declaration specified in Section 3106 or 3118 or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.

SEC. 5. Section 3201 of the Elections Code is amended to read:

3201. Any voter may apply for permanent vote by mail status. Application for permanent vote by mail status shall be made in accordance with Section 3001 or 3102. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

- (a) The applicant's name at length.
- (b) The applicant's residence address.
- (c) The address where the ballot is to be mailed, if different from the place of residence.
- (d) The signature of the applicant.

SEC. 6. Section 3203 of the Elections Code is amended to read:

3203. (a) Upon receipt of an application for permanent vote by mail status, the county elections official shall process the application in the same manner as an application for a vote by mail ballot, or, in the case of an application made pursuant to Section 3102, in the same manner as an application for a special absent voter ballot or overseas ballot.

(b) In addition to processing applications in accordance with Chapter 1 (commencing with Section 3000), if it is determined that the applicant is a registered voter, the county elections official shall do the following:

- (1) Place the voter's name upon a list of those to whom a vote by mail ballot is sent each time there is an election within their precinct.
- (2) Include in all vote by mail mailings to the voter an explanation of the vote by mail procedure and an explanation of Section 3206.
- (3) Maintain a copy of the vote by mail ballot list on file open to public inspection for election and governmental purposes.

SEC. 7. Section 8147.5 is added to the Elections Code, to read:

8147.5. Not less than 73 days, and not more than 90 days, before the general election, the Secretary of State shall notify each candidate for partisan office and voter-nominated office of the

names, addresses, offices, ballot designations, and party preferences of all other persons whose names are to appear on the ballot for the same office at the general election.

SEC. 8. Section 10735 of the Elections Code is amended to read:

10735. (a) (1) In the case of a special election due to a catastrophe that causes a vacancy in at least 101 offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 2 (commencing with Section 3101) of Division 3 not later than 15 days after the date on which the Speaker of the United States House of Representatives announces the vacancy.

(2) In the case of a special election due to a catastrophe that causes a vacancy in at least one-fourth of the total offices of the United States House of Representatives representing California but not a vacancy in at least 101 of the offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 2 (commencing with Section 3101) of Division 3 not later than 15 days after the date on which the Governor issues the proclamation calling the election to fill the vacancy.

(b) A vote by mail ballot cast pursuant to Chapter 2 (commencing with Section 3101) of Division 3 in a special general election conducted pursuant to this chapter shall be postmarked not later than the date of the election, shall be received by the county elections official not later than 45 days after the date on which the elections official transmitted the ballot to the voter, and shall comply with all other relevant requirements of this code.

(c) Notwithstanding any other provision of law, any deadlines relating to canvassing, announcement of election results, or certification of election results may be extended for a reasonable period of time to facilitate the tabulating and processing of ballots cast pursuant to Chapter 2 (commencing with Section 3101) of Division 3. An extension of a deadline pursuant to this section must be authorized by the Secretary of State.

SEC. 9. Section 13301 of the Elections Code is repealed.

SEC. 10. Section 13306 of the Elections Code is amended to read:

13306. Notwithstanding Sections 13300, 13303, and 13307, sample ballots and candidates' statements need not be mailed to voters who registered after the 54th day before an election, but all of these voters shall receive polling place notices and state ballot pamphlets. A state ballot pamphlet is not required to be mailed to a voter who registered after the 29th day prior to an election. Each of these voters shall receive a notice in bold print that states: "Because you are a late registrant, you are not receiving a sample ballot or candidates' statements."

SEC. 11. Section 13309 of the Elections Code is amended to read:

13309. (a) Notwithstanding Section 13307, if a candidate alleges to be indigent and unable to pay in advance the requisite fee for submitting a candidate statement, the candidate shall submit to the local agency a statement of financial worth to be used in determining whether or not he or she is eligible to submit a candidate statement without payment of the fee in advance.

(b) The statement of financial worth required by this section shall be submitted by the candidate together with his or her candidate statement in accordance with the deadline specified in Section 13307. The statement of financial worth form shall be furnished by the local agency, and may include questions relating to the candidate's employer, income, real estate holdings, tangible personal property, and financial obligations. The candidate shall certify the content of the statement as to its truth and correctness under penalty of perjury. The candidate shall also sign a release form of the candidate's most recent federal income tax report.

(c) Upon receipt of a statement of financial worth, a determination shall be made by the local agency of whether or not the candidate is indigent. The local agency shall notify the candidate of its findings.

(d) If it is determined that the candidate is not indigent, the candidate shall, within three days of the notification, excluding Saturdays, Sundays, and state holidays, withdraw the statement or pay the requisite fee. If the candidate fails to respond within the time prescribed, the local agency shall not be obligated to print and mail the statement.

(e) If the local agency determines that the candidate is indigent, the local agency shall print and mail the statement.

(f) Nothing in this section shall prohibit the local agency from billing the candidate his or her actual pro rata share of the cost after the election.

SEC. 12. Section 19206 of the Elections Code is amended to read:

19206. For the purpose of assistance in examining a voting system, the Secretary of State may employ expert electronic technicians or technician firms at a cost to be set by the Secretary of State. The compensation of the electronic technicians or technician firms shall be paid by the person or corporation submitting the machine or device.

The Secretary of State may require the person or corporation submitting the machine or device to deposit sufficient funds to guarantee the payment of the examination charges. The Secretary of State may deposit the funds in an appropriate treasury trust account and, within 30 days after his or her report of examination, draw a refund check to the credit of the person or corporation for any amount in excess of costs.

SEC. 13. Section 12 of this bill shall become inoperative if (1) this bill and Senate Bill 360 are both enacted and become effective on or before January 1, 2014, and (2) Senate Bill 360 repeals and adds Section 19206 to the Elections Code.

Approved _____, 2013

Governor