

ASSEMBLY BILL

No. 2530

Introduced by Assembly Member Rodriguez

February 21, 2014

An act to amend Sections 3019, 14310, 15101, 15320, and 15350 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2530, as introduced, Rodriguez. Ballot processing.

Existing law requires an elections official to compare the signature on the envelope of a vote by mail ballot, a mail ballot precinct ballot, or a provisional ballot with the signature that appears on the voter's affidavit of registration, as specified. If the elections official determines that the signatures do not compare, existing law requires that the ballot be rejected, as specified.

This bill would provide that if a vote by mail ballot, mail ballot precinct ballot, or provisional ballot is processed using signature verification technology that determines the signatures do not compare, the elections official is required to visually examine and verify that the signatures do not compare before rejecting the ballot. By imposing additional duties on local elections officials, this 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 3019 of the Elections Code is amended
2 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 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 (b) In comparing signatures pursuant to subdivision (a), the
20 elections official may use the duplicate file of affidavits of
21 registered voters or facsimiles of voters’ signatures, provided that
22 the method of preparing and displaying the facsimiles complies
23 with the law.

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

28 (2) If upon conducting the comparison of signatures pursuant
29 to subdivision (a) the elections official determines that the
30 signatures do not compare, the identification envelope shall not
31 be opened and the ballot shall not be counted. The cause of the
32 rejection shall be written on the face of the identification envelope.

33 (d) The variation of a signature caused by the substitution of
34 initials for the first or middle name, or both, shall not be grounds

1 for the elections official to determine that the signatures do not
2 compare.

3 *(e) In comparing signatures pursuant to this section, if an*
4 *elections official uses signature verification technology that*
5 *determines the signatures do not compare, the elections official*
6 *shall not reject the ballot unless he or she visually examines the*
7 *signatures and verifies that the signatures do not compare.*

8 ~~(e)~~

9 (f) A ballot shall not be removed from its identification envelope
10 until the time for processing ballots. A ballot shall not be rejected
11 for cause after the identification envelope has been opened.

12 SEC. 2. Section 14310 of the Elections Code, as amended by
13 Section 1 of Chapter 611 of the Statutes of 2009, is amended to
14 read:

15 14310. (a) At all elections, a voter claiming to be properly
16 registered, but whose qualification or entitlement to vote cannot
17 be immediately established upon examination of the index of
18 registration for the precinct or upon examination of the records on
19 file with the county elections official, shall be entitled to vote a
20 provisional ballot as follows:

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

23 (2) The voter shall be provided a provisional ballot, written
24 instructions regarding the process and procedures for casting the
25 provisional ballot, and a written affirmation regarding the voter's
26 registration and eligibility to vote. The written instructions shall
27 include the information set forth in subdivisions (c) and (d).

28 (3) The voter shall be required to execute, in the presence of an
29 elections official, the written affirmation stating that the voter is
30 eligible to vote and registered in the county where the voter desires
31 to vote.

32 (b) Once voted, the voter's ballot shall be sealed in a provisional
33 ballot envelope, and the ballot in its envelope shall be deposited
34 in the ballot box. All provisional ballots voted shall remain sealed
35 in their envelopes for return to the elections official in accordance
36 with the elections official's instructions. The provisional ballot
37 envelopes specified in this subdivision shall be a color different
38 than the color of, but printed substantially similar to, the envelopes
39 used for vote by mail ballots, and shall be completed in the same
40 manner as vote by mail envelopes.

1 (c) (1) During the official canvass, the elections official shall
2 examine the records with respect to all provisional ballots cast.
3 Using the procedures that apply to the comparison of signatures
4 on vote by mail ballots *pursuant to Section 3019*, the elections
5 official shall compare the signature on each provisional ballot
6 envelope with the signature on the voter's affidavit of registration
7 *or other signature in the voter's registration record*. If the
8 signatures do not compare or the provisional ballot envelope is
9 not signed, the ballot shall be rejected. A variation of the signature
10 caused by the substitution of initials for the first or middle name,
11 or both, shall not invalidate the ballot.

12 (2) Provisional ballots shall not be included in any semiofficial
13 or official canvass, except upon: (A) the elections official's
14 establishing prior to the completion of the official canvass, from
15 the records in his or her office, the claimant's right to vote; or (B)
16 the order of a superior court in the county of the voter's residence.
17 A voter may seek the court order specified in this paragraph
18 regarding his or her own ballot at any time prior to completion of
19 the official canvass. Any judicial action or appeal shall have
20 priority over all other civil matters. ~~No~~ A fee shall *not* be charged
21 to the claimant by the clerk of the court for services rendered in
22 an action under this section.

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

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

31 (B) If the ballot cast by the voter contains candidates or
32 measures on which the voter would not have been entitled to vote
33 in his or her assigned precinct, the elections official shall count
34 only the votes for the candidates and measures on which the voter
35 was entitled to vote in his or her assigned precinct.

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

1 (e) The Secretary of State may adopt appropriate regulations
2 for ~~purposes~~ *the purpose* of ensuring the uniform application of
3 this section.

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

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

9 SEC. 3. Section 14310 of the Elections Code, as amended by
10 Section 3 of Chapter 497 of the Statutes of 2012, is amended to
11 read:

12 14310. (a) At all elections, a voter claiming to be properly
13 registered, but whose qualification or entitlement to vote cannot
14 be immediately established upon examination of the index of
15 registration for the precinct or upon examination of the records on
16 file with the county elections official, shall be entitled to vote a
17 provisional ballot as follows:

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

20 (2) The voter shall be provided a provisional ballot, written
21 instructions regarding the process and procedures for casting the
22 ballot, and a written affirmation regarding the voter's registration
23 and eligibility to vote. The written instructions shall include the
24 information set forth in subdivisions (c) and (d).

25 (3) The voter shall be required to execute, in the presence of an
26 elections official, the written affirmation stating that the voter is
27 eligible to vote and registered in the county where the voter desires
28 to vote.

29 (b) Once voted, the voter's ballot shall be sealed in a provisional
30 ballot envelope, and the ballot in its envelope shall be deposited
31 in the ballot box. All provisional ballots voted shall remain sealed
32 in their envelopes for return to the elections official in accordance
33 with the elections official's instructions. The provisional ballot
34 envelopes specified in this subdivision shall be of a color different
35 than the color of, but printed substantially similar to, the envelopes
36 used for vote by mail ballots, and shall be completed in the same
37 manner as vote by mail envelopes.

38 (c) (1) During the official canvass, the elections official shall
39 examine the records with respect to all provisional ballots cast.
40 Using the procedures that apply to the comparison of signatures

1 on vote by mail ballots *pursuant to Section 3019*, the elections
2 official shall compare the signature on each provisional ballot
3 envelope with the signature on the voter's affidavit of registration
4 *or other signature in the voter's registration record*. If the
5 signatures do not compare or the provisional ballot envelope is
6 not signed, the ballot shall be rejected. A variation of the signature
7 caused by the substitution of initials for the first or middle name,
8 or both, shall not invalidate the ballot.

9 (2) (A) Provisional ballots shall not be included in any
10 semiofficial or official canvass, except under one or more of the
11 following conditions:

12 (i) The elections official establishes prior to the completion of
13 the official canvass, from the records in his or her office, the
14 claimant's right to vote.

15 (ii) The provisional ballot has been cast and included in the
16 canvass pursuant to Article 4.5 (commencing with Section 2170)
17 of Chapter 2 of Division 2.

18 (iii) Upon the order of a superior court in the county of the
19 voter's residence.

20 (B) A voter may seek the court order specified in this paragraph
21 regarding his or her own ballot at any time prior to completion of
22 the official canvass. Any judicial action or appeal shall have
23 priority over all other civil matters. ~~No~~ A fee shall *not* be charged
24 to the claimant by the clerk of the court for services rendered in
25 an action under this section.

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

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

34 (B) If the ballot cast by the voter contains candidates or
35 measures on which the voter would not have been entitled to vote
36 in his or her assigned precinct, the elections official shall count
37 only the votes for the candidates and measures on which the voter
38 was entitled to vote in his or her assigned precinct.

39 (d) The Secretary of State shall establish a free access system
40 that any voter who casts a provisional ballot may access to discover

1 whether the voter’s provisional ballot was counted and, if not, the
2 reason why it was not counted.

3 (e) The Secretary of State may adopt appropriate regulations
4 for ~~purposes~~ *the purpose* of ensuring the uniform application of
5 this section.

6 (f) This section shall apply to any vote by mail voter described
7 by Section 3015 who is unable to surrender his or her unvoted vote
8 by mail voter’s ballot.

9 (g) Any existing supply of envelopes marked “special challenged
10 ballot” may be used until the supply is exhausted.

11 SEC. 4. Section 15101 of the Elections Code is amended to
12 read:

13 15101. (a) Any jurisdiction in which vote by mail ballots are
14 cast may begin to process vote by mail ballot return envelopes
15 beginning 29 days before the election. Processing vote by mail
16 ballot return envelopes may include verifying the voter’s signature
17 on the vote by mail ballot return envelope *pursuant to Section*
18 *3019* and updating voter history records.

19 (b) Any jurisdiction having the necessary computer capability
20 may start to process vote by mail ballots on the seventh business
21 day ~~prior to~~ *before* the election. Processing vote by mail ballots
22 includes opening vote by mail ballot return envelopes, removing
23 ballots, duplicating any damaged ballots, and preparing the ballots
24 to be machine read, or machine reading them, but under no
25 circumstances may a vote count be accessed or released until 8
26 p.m. on the day of the election. All other jurisdictions shall start
27 to process vote by mail ballots at 5 p.m. on the day before the
28 election.

29 (c) Results of any vote by mail ballot tabulation or count shall
30 not be released ~~prior to~~ *before* the close of the polls on the day of
31 the election.

32 SEC. 5. Section 15320 of the Elections Code is amended to
33 read:

34 15320. Vote by mail ballots and mail ballot precinct ballots
35 returned to the elections office and to the polls on election day that
36 are not included in the semifinal official canvass phase of the
37 election shall be processed and counted during the official canvass
38 in the manner prescribed by Chapter 3 2 (commencing with Section
39 15100) *and pursuant to the requirements of Section 3019.*

1 SEC. 6. Section 15350 of the Elections Code is amended to
2 read:
3 15350. Provisional ballots cast pursuant to Section 14310 shall
4 be processed and counted in accordance with the provisions
5 outlined in Chapter 3 2 (commencing with Section 15100) and
6 pursuant to the requirements of Sections 14310 and 14311.
7 SEC. 7. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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