

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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 amended, 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.

This bill would incorporate additional changes to Section 15101 of the Elections Code proposed by SB 29, to be operative only if SB 29 and this bill are both chaptered and become effective January 1, 2015, and this bill is chaptered last.

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.

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

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

10 (e) In comparing signatures pursuant to this section, an elections
11 official is authorized to use signature verification technology. If
12 signature verification technology determines the signatures do not
13 compare, the elections official shall not reject the ballot unless he
14 or she visually examines the signatures and verifies that the
15 signatures do not compare.

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

19 SEC. 2. Section 14310 of the Elections Code, as amended by
20 Section 1 of Chapter 611 of the Statutes of 2009, is amended to
21 read:

22 14310. (a) At all elections, a voter claiming to be properly
23 registered, but whose qualification or entitlement to vote cannot
24 be immediately established upon examination of the index of
25 registration for the precinct or upon examination of the records on
26 file with the county elections official, shall be entitled to vote a
27 provisional ballot as follows:

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

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

35 (3) The voter shall be required to execute, in the presence of an
36 elections official, the written affirmation stating that the voter is
37 eligible to vote and registered in the county where the voter desires
38 to vote.

39 (b) Once voted, the voter's ballot shall be sealed in a provisional
40 ballot envelope, and the ballot in its envelope shall be deposited

1 in the ballot box. All provisional ballots voted shall remain sealed
2 in their envelopes for return to the elections official in accordance
3 with the elections official's instructions. The provisional ballot
4 envelopes specified in this subdivision shall be a color different
5 than the color of, but printed substantially similar to, the envelopes
6 used for vote by mail ballots, and shall be completed in the same
7 manner as vote by mail envelopes.

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

19 (2) Provisional ballots shall not be included in any semiofficial
20 or official canvass, except upon: (A) the elections official's
21 establishing prior to the completion of the official canvass, from
22 the records in his or her office, the claimant's right to vote; or (B)
23 the order of a superior court in the county of the voter's residence.
24 A voter may seek the court order specified in this paragraph
25 regarding his or her own ballot at any time prior to completion of
26 the official canvass. Any judicial action or appeal shall have
27 priority over all other civil matters. A fee shall not be charged to
28 the claimant by the clerk of the court for services rendered in an
29 action under this section.

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

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

38 (B) If the ballot cast by the voter contains candidates or
39 measures on which the voter would not have been entitled to vote
40 in his or her assigned precinct, the elections official shall count

1 only the votes for the candidates and measures on which the voter
2 was entitled to vote in his or her assigned precinct.

3 (d) The Secretary of State shall establish a free access system
4 that any voter who casts a provisional ballot may access to discover
5 whether the voter’s provisional ballot was counted and, if not, the
6 reason why it was not counted.

7 (e) The Secretary of State may adopt appropriate regulations
8 for the purpose of ensuring the uniform application of this section.

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

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

14 SEC. 3. Section 14310 of the Elections Code, as amended by
15 Section 3 of Chapter 497 of the Statutes of 2012, is amended to
16 read:

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

23 (1) An elections official shall advise the voter of the voter’s
24 right to cast a provisional ballot.

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

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

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

1 used for vote by mail ballots, and shall be completed in the same
2 manner as vote by mail envelopes.

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

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

17 (i) The elections official establishes prior to the completion of
18 the official canvass, from the records in his or her office, the
19 claimant’s right to vote.

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

23 (iii) Upon the order of a superior court in the county of the
24 voter’s residence.

25 (B) A voter may seek the court order specified in this paragraph
26 regarding his or her own ballot at any time prior to completion of
27 the official canvass. Any judicial action or appeal shall have
28 priority over all other civil matters. A fee shall not be charged to
29 the claimant by the clerk of the court for services rendered in an
30 action under this section.

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

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

39 (B) If the ballot cast by the voter contains candidates or
40 measures on which the voter would not have been entitled to vote

1 in his or her assigned precinct, the elections official shall count
2 only the votes for the candidates and measures on which the voter
3 was entitled to vote in his or her assigned precinct.

4 (d) The Secretary of State shall establish a free access system
5 that any voter who casts a provisional ballot may access to discover
6 whether the voter’s provisional ballot was counted and, if not, the
7 reason why it was not counted.

8 (e) The Secretary of State may adopt appropriate regulations
9 for the purpose of ensuring the uniform application of this section.

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

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

15 SEC. 4. Section 15101 of the Elections Code is amended to
16 read:

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

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

32 (c) Results of any vote by mail ballot tabulation or count shall
33 not be released before the close of the polls on the day of the
34 election.

35 SEC. 4.5. *Section 15101 of the Elections Code is amended to*
36 *read:*

37 15101. (a) Any jurisdiction in which vote by mail ballots are
38 cast may begin to process vote by mail ballot return envelopes
39 beginning 29 days before the election. Processing vote by mail
40 ballot return envelopes may include verifying the voter’s signature

1 on the vote by mail ballot return envelope *pursuant to Section*
 2 *3019* and updating voter history records.

3 (b) Any jurisdiction having the necessary computer capability
 4 may start to process vote by mail ballots on the ~~seventh~~ *10th*
 5 business day ~~prior to~~ *before* the election. Processing vote by mail
 6 ballots includes opening vote by mail ballot return envelopes,
 7 removing ballots, duplicating any damaged ballots, and preparing
 8 the ballots to be machine read, or machine reading them, but under
 9 no circumstances may a vote count be accessed or released until
 10 8 p.m. on the day of the election. All other jurisdictions shall start
 11 to process vote by mail ballots at 5 p.m. on the day before the
 12 election.

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

16 SEC. 5. Section 15320 of the Elections Code is amended to
 17 read:

18 15320. Vote by mail ballots and mail ballot precinct ballots
 19 returned to the elections office and to the polls on election day that
 20 are not included in the semifinal official canvass phase of the
 21 election shall be processed and counted during the official canvass
 22 in the manner prescribed by Chapter 2 (commencing with Section
 23 15100) and pursuant to the requirements of Section 3019.

24 SEC. 6. Section 15350 of the Elections Code is amended to
 25 read:

26 15350. Provisional ballots cast pursuant to Section 14310 shall
 27 be processed and counted in accordance with the provisions
 28 outlined in Chapter 2 (commencing with Section 15100) and
 29 pursuant to the requirements of Sections 14310 and 14311.

30 *SEC. 7. Section 4.5 of this bill incorporates amendments to*
 31 *Section 15101 of the Elections Code proposed by both this bill*
 32 *and Senate Bill 29. It shall only become operative if (1) both bills*
 33 *are enacted and become effective on or before January 1, 2015,*
 34 *(2) each bill amends Section 15101 of the Elections Code, and (3)*
 35 *this bill is enacted after Senate Bill 29, in which case Section 4 of*
 36 *this bill shall not become operative.*

37 ~~SEC. 7.~~

38 SEC. 8. If the Commission on State Mandates determines that
 39 this act contains costs mandated by the state, reimbursement to
 40 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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