

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 362

Introduced by Senator Padilla

February 20, 2013

An act to add ~~Section 19006~~ *Sections 336.7 and 3021.5* to the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

SB 362, as amended, Padilla. Voting procedures: natural disasters.

Existing law designates the Secretary of State as the chief elections officer of the state and requires him or her to study and adopt regulations governing the use of voting machines, voting devices, vote tabulating devices, and ballot marking systems. Existing law also establishes procedures for the marking and counting of ballots in the case of electrical failure or other emergency.

This bill would make legislative findings relating to natural disasters outside California and their effect on a state resident's ability to vote. The bill would, upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an *out-of-state* emergency worker, as defined, to cast a ballot outside of his or her home precinct, require a county elections official to issue an *out-of-state* emergency worker a vote by mail ballot upon that worker's request. By imposing a new duty on local officials, the 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. The Legislature finds and declares all of the
 2 following:

3 (a) Natural disasters outside California can affect a state
 4 resident’s ability to vote. Earthquakes, hurricanes, and other
 5 disasters can destroy or damage election infrastructure, including
 6 the electrical and telecommunications grid and polling places,
 7 disrupt the delivery of vote by mail ballots by the United States
 8 Postal Service, and displace election officials and interrupt their
 9 duties.

10 (b) California residents volunteer to help victims of natural
 11 disasters, including their family members. California voters, such
 12 as firefighters, police officers, National Guardsmen, utility workers,
 13 and average citizens travel to areas affected by disasters for
 14 extended periods of time to help with recovery efforts that can
 15 include other states and countries. Disasters and volunteer efforts
 16 can occur close to an election and affect a volunteer’s ability to
 17 vote.

18 (c) Currently, neither the Governor, the Secretary of State, nor
 19 county elections officials have the authority to establish procedures
 20 and guidelines to specifically allow residents affected by an
 21 out-of-state disaster to vote.

22 ~~SEC. 2. Section 19006 is added to the Elections Code, to read:~~

23 ~~19006. (a) For purposes of this section, “emergency worker”~~
 24 ~~means a person who is officially engaged in responding to the~~
 25 ~~proclamation of an out-of-state emergency and whose vocation~~
 26 ~~has been identified in an executive order relating to the state of~~
 27 ~~emergency.~~

28 ~~(b) Upon the declaration of an out-of-state emergency by the~~
 29 ~~Governor and the issuance of an executive order authorizing an~~
 30 ~~emergency worker to cast a ballot outside of his or her home~~
 31 ~~precinct, a county elections official shall, upon request, issue a~~

1 vote by mail ballot to an emergency worker using a process to be
2 determined by that elections official.

3 ~~(e) In order to be counted, a vote by mail ballot cast pursuant
4 to this section shall be received by the elections official no later
5 than three days after election day and postmarked on or before
6 election day or time-stamped or date-stamped by a private mail
7 delivery company on or before election day.~~

8 ~~(d) Upon receipt of the returned ballot, the elections official
9 shall process the ballot pursuant to the procedures in Section 3019.~~

10 ~~(e) A vote by mail ballot may be sent to the emergency worker
11 via electronic mail or facsimile.~~

12 *SEC. 2. Section 336.7 is added to the Elections Code, to read:*

13 *336.7. "Out-of-state emergency worker" means a voter who
14 is officially engaged in responding to the proclamation of an
15 out-of-state emergency and whose vocation has been identified in
16 an executive order relating to the state of emergency.*

17 *SEC. 3. Section 3021.5 is added to the Elections Code, to read:*

18 *3021.5. (a) Upon the declaration of an out-of-state emergency
19 by the Governor and the issuance of an executive order authorizing
20 an out-of-state emergency worker to cast a ballot outside of his
21 or her home precinct, a county elections official shall, upon request
22 of an out-of-state emergency worker pursuant to this chapter, issue
23 a vote by mail ballot to the out-of-state emergency worker using
24 a process to be determined by that elections official. The process
25 shall include all of the following:*

26 *(1) Authorization for an out-of-state emergency worker to
27 request a vote by mail ballot after the close of the vote by mail
28 ballot application period specified in Section 3001.*

29 *(2) Authorization for a vote by mail ballot and accompanying
30 voting materials to be sent to an out-of-state emergency worker
31 by mail, facsimile transmission, or electronic transmission, as
32 requested by the out-of-state emergency worker. An elections
33 official may use reasonable facsimiles of the sample ballots sent
34 to voters as vote by mail ballots.*

35 *(3) A requirement that an out-of-state emergency worker mark
36 the vote by mail ballot provided to him or her, place it in the vote
37 by mail ballot identification envelope, and return the vote by mail
38 ballot to the elections official from whom it was obtained. If no
39 identification envelope is provided, the envelope used to return
40 the vote by mail ballot to the elections official shall include the*

1 *information required by subdivision (a) of Section 3011 and a*
2 *statement signed under penalty of perjury that the voter is an*
3 *out-of-state emergency worker.*

4 *(b) In order to be counted, a vote by mail ballot cast pursuant*
5 *to this section shall be received in compliance with Section 3020.*

6 *(c) An elections official shall receive and canvass vote by mail*
7 *ballots cast pursuant to this section by the same procedure as for*
8 *all other vote by mail ballots cast pursuant to this chapter.*

9 ~~SEC. 3.~~

10 SEC. 4. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.