

AMENDED IN ASSEMBLY MARCH 12, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 245

Introduced by Assembly Member Lackey

February 9, 2015

An act to amend ~~Section 14026~~ *Sections 18544 and 18545* of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL’S DIGEST

AB 245, as amended, Lackey. ~~California Voting Rights Act of 2001.~~
Elections: penal provisions.

Existing law prohibits a person in possession of a firearm, uniformed peace officer, private guard, or security personnel from being stationed or posted at a polling place without written authorization of the appropriate elections official. Violation of this provision is punishable by a fine not exceeding \$10,000, imprisonment in the state prison for 16 months or 2 or 3 years, or in a county jail for not more than one year, or by both fine and imprisonment.

Existing law prohibits the hiring of or arranging for a person in possession of a firearm, uniformed peace officer, private guard, or security personnel to be stationed or posted at a polling place without written authorization of the appropriate elections official. Violation of this provision is punishable by a fine not exceeding \$10,000, imprisonment in the state prison for 16 months or 2 or 3 years, or in a county jail for not more than one year, or by both fine and imprisonment.

This bill would increase the maximum fine for those offenses to \$16,000 and require that the fine amount be adjusted annually by any annual increase in the California Consumer Price Index, as described.

The California Voting Rights Act of 2001 (CVRA) prohibits the use of an at-large election in a political subdivision if it would impair the ability of a protected class, as defined, to elect candidates of its choice or otherwise influence the outcome of an election. The CVRA provides that a violation of the act is established if it is shown that racially polarized voting, as defined, has occurred, and provides that the occurrence of racially polarized voting shall be determined from examining the results of elections in which at least one candidate is a member of a protected class or elections involving ballot measures or other electoral choices that affect the rights and privileges of members of a protected class. The CVRA provides that a voter who is a member of a protected class, as specified, may bring an action in superior court to enforce the provisions of the CVRA, and, if the voter prevails in the case, he or she may be awarded reasonable litigation costs and attorney's fees.

This bill would make technical, nonsubstantive changes to provisions of law defining several terms for purposes of the CVRA.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

1 SECTION 1. Section 18544 of the Elections Code is amended
2 to read:
3 18544. (a) ~~Any~~ It is unlawful for a person in possession of a
4 firearm ~~or any~~, a uniformed peace officer, private guard, or
5 security ~~personnel~~ person or any person who is wearing a uniform
6 of a peace officer, guard, or security ~~personnel~~ person, ~~who is to~~
7 be stationed in the immediate vicinity of, or posted at, a polling
8 place without written authorization of the appropriate city or county
9 elections official. Violation of this section is punishable by a fine
10 not exceeding ~~ten~~ sixteen thousand dollars ~~(\$10,000)~~ (\$16,000),
11 by imprisonment pursuant to subdivision (h) of Section 1170 of
12 the Penal Code for 16 months or two or three years, or in a county
13 jail not exceeding one year, or by both that fine and imprisonment.
14 *The fine amount shall be adjusted annually by any annual increase*
15 *in the California Consumer Price Index, as determined pursuant*
16 *to Section 2212 of the Revenue and Taxation Code.*
17 (b) This section ~~shall~~ does not apply to ~~any~~ of the following:

(1) An unarmed uniformed guard or security ~~personnel~~ *person* who is at the polling place to cast his or her vote.

(2) A peace officer who is conducting official business in the course of his or her public employment or who is at the polling place to cast his or her vote.

(3) A private guard or security ~~personnel~~ *person* hired or arranged for by a city or county elections official.

(4) A private guard or security ~~personnel~~ *person* hired or arranged for by the owner or manager of the facility or property in which the polling place is located if the guard or security ~~personnel~~ *person* is not hired or arranged solely for the day on which an election is held.

SEC. 2. Section 18545 of the Elections Code is amended to read:

~~18545. Any person who hires or arranges for any other~~ *It is unlawful for a person to hire or arrange for a person in possession of a firearm or any, a uniformed peace officer, private guard, or security ~~personnel~~ person or any person who is wearing a uniform of a peace officer, guard, or security ~~personnel~~ person, to be stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate elections official. Violation of this section is punishable by a fine not exceeding ten sixteen thousand dollars (~~\$10,000~~) (\$16,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment. The fine amount shall be adjusted annually by any annual increase in the California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code. This section ~~shall~~ does not apply to the owner or manager of the facility or property in which the polling place is located if the private guard or security ~~personnel~~ person is not hired or arranged solely for the day on which the election is held.*

~~SECTION 1. Section 14026 of the Elections Code is amended to read:~~

~~14026. As used in this chapter:~~

~~(a) "At-large method of election" means any of the following methods of electing members to the governing body of a political subdivision:~~

1 ~~(1) One in which the voters of the entire jurisdiction elect the~~
2 ~~members to the governing body.~~

3 ~~(2) One in which the candidates are required to reside within~~
4 ~~given areas of the jurisdiction and the voters of the entire~~
5 ~~jurisdiction elect the members to the governing body.~~

6 ~~(3) One which combines at-large elections with district-based~~
7 ~~elections.~~

8 ~~(b) “District-based elections” means a method of electing~~
9 ~~members to the governing body of a political subdivision in which~~
10 ~~the candidate must reside within an election district that is a~~
11 ~~divisible part of the political subdivision and is elected only by~~
12 ~~voters residing within that election district.~~

13 ~~(c) “Political subdivision” means a geographic area of~~
14 ~~representation created for the provision of government services;~~
15 ~~including, but not limited to, a city, a school district, a community~~
16 ~~college district, or other district organized pursuant to state law.~~

17 ~~(d) “Protected class” means a class of voters who are members~~
18 ~~of a race, color, or language minority group, as this class is defined~~
19 ~~in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).~~

20 ~~(e) “Racially polarized voting” means voting in which there is~~
21 ~~a difference, as defined in case law regarding enforcement of the~~
22 ~~federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.), in the~~
23 ~~choice of candidates or other electoral choices that are preferred~~
24 ~~by voters in a protected class, and in the choice of candidates and~~
25 ~~electoral choices that are preferred by voters in the rest of the~~
26 ~~electorate. The methodologies for estimating group voting behavior~~
27 ~~as approved in applicable federal cases to enforce the federal~~
28 ~~Voting Rights Act (42 U.S.C. Sec. 1973 et seq.) to establish racially~~
29 ~~polarized voting may be used for purposes of this section to prove~~
30 ~~that elections are characterized by racially polarized voting.~~