

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 887

Introduced by Assembly Member Ting

February 26, 2015

An act to *amend Sections 3104 and 3105 of, and to add Chapter 1.5 (commencing with Section 3050) to Division 3 of Sections 3106.2 and 3106.5 to, the Elections Code, relating to elections.*

LEGISLATIVE COUNSEL'S DIGEST

AB 887, as amended, Ting. ~~Electronic ballot transmission. Military and overseas voters: ballot submission by electronic mail: Internet voting.~~

Existing law requires that a vote by mail ballot be available to any registered voter and specifies the manner by which the ballot must be returned. Existing law permits a military or overseas voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called to military service, to return his or her vote by mail ballot by facsimile transmission to the elections official. The ballot must be received by the closing of the election day polls and accompanied by an identification envelope and an oath of voter declaration in a prescribed form. Existing law requires a military or overseas voter who returns a ballot by facsimile transmission to agree in an oath of voter declaration under penalty of perjury to waive his or her right to a secret ballot and that he or she has not applied for a vote by mail ballot from any other jurisdiction for the election. The elections official is required to determine the voter's eligibility to vote

by comparing the voter's signature from the materials returned by facsimile transmission to the signature on the voter's affidavit of registration.

This bill would permit a military or overseas voter to return his or her ballot by electronic mail, as prescribed. The bill would require the ballot to be accompanied by a copy of an identification envelope and an oath of voter declaration in substantially the form described with respect to facsimile transmission of ballots. This bill would require the elections official to determine the voter's eligibility to vote by comparing the signature on the scanned copy of the identification envelope with the signature on the voter's affidavit of registration.

This bill would permit a military or overseas voter to cast his or her vote on the Internet by electronically marking his or her ballot and securely transmitting the voted ballot to the appropriate elections official. To be counted, the voted ballot must be received by the voter's elections official no later than the closing of the polls on election day. These provisions would become operative only if the Secretary of State certifies that he or she has identified and addressed all issues regarding the security of casting a vote using the Internet.

Because the bill requires elections officials to provide a higher level of service and expands the scope of the crime of perjury, it 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Existing law requires that a vote by mail ballot be available to any registered voter. Under existing law, a voter may: (1) return the vote by mail ballot by mail or in person to the elections official from whom it came; (2) return the vote by mail ballot in person to a member of a precinct board at a polling place within the jurisdiction, or (3), if unable to return the vote by mail ballot, designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote by mail voter to return the ballot to the

elections official from whom it came or to the precinct board at a polling place within the jurisdiction.

~~This bill would authorize an elections official to send a voter a ballot by secure electronic transmission for an election conducted wholly within the county. This bill would also require a voter who receives a ballot in this manner to print the ballot for return to the elections official.~~

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

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

1 SECTION 1. Section 3104 of the Elections Code is amended
2 to read:

3 3104. Applications for the ballots of military or overseas voters
4 shall be received and, except as provided in ~~Section 3106~~, Sections
5 3106, 3106.2, and 3106.5, the ballots shall be received and
6 canvassed, at the same time and under the same procedure as vote
7 by mail ballots, insofar as that procedure is not inconsistent with
8 this chapter.

9 SEC. 2. Section 3105 of the Elections Code is amended to read:

10 3105. (a) ~~Any~~An application made pursuant to this chapter
11 that is received by the elections official prior to the 60th day before
12 the election shall be kept and processed on or after the 60th day
13 before the election.

14 (b) (1) The elections official shall send the ballot not earlier
15 than 60 days but not later than 45 days before the election and
16 shall include with the ballot a list of all candidates who have
17 qualified for the ballot and a list of all measures that are to be
18 submitted to the voters and on which the voter is qualified to vote.
19 The voter shall be entitled to write in the name of any specific
20 candidate seeking nomination or election to any office listed on
21 the ballot.

22 (2) The military or overseas voter may, in the alternative to the
23 ballot provided pursuant to paragraph (1), use a federal write-in
24 absentee ballot to vote in any election in which the military or
25 overseas voter is qualified to vote.

26 (c) Notwithstanding Section 15341 or any other ~~provision of~~
27 law, any name written upon a ballot for a particular office pursuant
28 to subdivision (b) shall be counted for the office or nomination,
29 providing the candidate whose name has been written on the ballot

1 has, as of the date of the election, qualified to have his or her name
 2 placed on the ballot for the office, or has qualified as a write-in
 3 candidate for the office.

4 (d) Except as provided in ~~Section 3106~~, *Sections 3106, 3106.2,*
 5 *and 3106.5*, the elections official shall receive and canvass military
 6 or overseas voter ballots described in this section under the same
 7 procedure as vote by mail ballots, insofar as that procedure is not
 8 inconsistent with this section.

9 (e) In the event that a military or overseas voter executes a ballot
 10 pursuant to this section and an application for a vote by mail ballot
 11 pursuant to Section 3102, the elections official shall process the
 12 application and the ballot in accordance with this chapter.

13 (f) Notwithstanding any other ~~provision~~ of law, a military or
 14 overseas voter who qualifies pursuant to this chapter may, by
 15 facsimile transmission, register to vote and apply for a ballot
 16 pursuant to this section or a vote by mail ballot. Upon request, the
 17 elections official shall send the ballot to the qualified military or
 18 overseas voter either by mail, facsimile, or electronic transmission,
 19 as requested by the voter.

20 *SEC. 3. Section 3106.2 is added to the Elections Code, to read:*

21 *3106.2. (a) A military or overseas voter, as described in*
 22 *subdivision (b) of Section 300, may return his or her vote by mail*
 23 *ballot by electronic mail in the manner prescribed in subdivision*
 24 *(b). To be counted, the ballot returned by electronic mail must be*
 25 *received by the voter's elections official no later than the closing*
 26 *of the polls on election day and must be accompanied by a copy*
 27 *of an identification envelope containing all of the information*
 28 *required by Section 3011 and an oath of voter declaration in*
 29 *substantially the form described in subdivision (a) of Section 3106.*

30 *(b) To submit a ballot by electronic mail, the ballot and*
 31 *accompanying identification envelope and oath of voter declaration*
 32 *must be scanned to create electronic copies of the documents. The*
 33 *electronic copies of the documents shall be included in the*
 34 *electronic mail sent to the elections official as attachments. The*
 35 *Secretary of State shall adopt uniform regulations for the use of*
 36 *electronic mail in returning ballots.*

37 *(c) Notwithstanding the voter's waiver of the right to a secret*
 38 *ballot, each elections official shall adopt appropriate procedures*
 39 *to protect the secrecy of ballots returned by electronic mail.*

1 (d) Upon receipt of a ballot returned by electronic mail, the
2 elections official shall determine the voter's eligibility to vote by
3 comparing the signature on the scanned copy of the identification
4 envelope with the signature on the voter's affidavit of registration.
5 The ballot shall be duplicated and all materials preserved
6 according to procedures set forth in this code.

7 SEC. 4. Section 3106.5 is added to the Elections Code, to read:

8 3106.5. (a) Notwithstanding any other law, a military or
9 overseas voter, as described in subdivision (b) of Section 300, may
10 cast his or her vote on the Internet by electronically marking his
11 or her ballot and securely transmitting the voted ballot to the
12 appropriate elections official using the Internet. To be counted,
13 the voted ballot must be received by the voter's elections official
14 no later than the closing of the polls on election day.

15 (b) The Secretary of State shall adopt uniform regulations for
16 military and overseas voters to cast votes using the Internet.

17 (c) This section shall become operative only if the Secretary of
18 State certifies that he or she has identified and addressed all issues
19 regarding the security of casting a vote using the Internet.

20 SEC. 5. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution for certain
22 costs that may be incurred by a local agency or school district
23 because, in that regard, this act creates a new crime or infraction,
24 eliminates a crime or infraction, or changes the penalty for a crime
25 or infraction, within the meaning of Section 17556 of the
26 Government Code, or changes the definition of a crime within the
27 meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 However, if the Commission on State Mandates determines that
30 this act contains other costs mandated by the state, reimbursement
31 to local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

34 SECTION 1. Chapter 1.5 (commencing with Section 3050) is
35 added to Division 3 of the Elections Code, to read:

1 ~~CHAPTER 1.5. ELECTRONIC BALLOT TRANSMISSION~~

2

3 ~~3050. (a) An elections official may send a voter a ballot by~~
4 ~~secure electronic transmission if the election is conducted wholly~~
5 ~~within the county.~~

O