

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1461

Introduced by Assembly Member Gonzalez

February 27, 2015

An act to amend Sections 2027 and 14310 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1461, as amended, Gonzalez. ~~Early voting.~~ *Voter residency.*

Existing law defines "residence" for voting purposes as a person's domicile, which is defined as the place of a person's fixed habitation, in which the person has the intention of remaining and to which the person has the intention of returning when absent. Existing law provides that residence in a trailer or vehicle, or at any public camp or camping ground, may constitute a person's domicile for voting purposes.

This bill would provide that residence in a place of business or public space may also constitute a person's domicile for voting purposes.

Existing law provides that at all elections a voter claiming to be properly registered, but whose qualification or entitlement to vote cannot be immediately established, is entitled to vote a provisional ballot, as prescribed. Existing law prohibits the rejection of a provisional ballot of a voter who is otherwise entitled to vote because the voter did not cast his or her ballot in the precinct to which he or she was assigned.

This bill additionally would prohibit the rejection of a provisional ballot because the address provided by the voter on the provisional ballot differs from the address contained in the voter's affidavit of registration.

Existing law establishes procedures for voters to apply for a vote by mail ballot and use the ballot to vote in an election. Existing law allows a jurisdiction in which vote by mail ballots are cast to begin processing vote by mail ballots 29 days before the election.

This bill would declare that it is the intent of the Legislature to enact legislation allowing in-person voting at county offices before the day of the election.

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

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

1 SECTION 1. Section 2027 of the Elections Code is amended
2 to read:

3 2027. (a) The place where a person’s family is domiciled is
4 his or her domicile unless it is a place for temporary establishment
5 for his or her family or for transient objects.

6 (b) Residence in a ~~trailer or vehicle~~ trailer, vehicle, place of
7 business, or public space, or at any public camp or camping
8 ground, may constitute a domicile for voting purposes if the
9 registrant complies with the other requirements of this article.

10 SEC. 2. Section 14310 of the Elections Code, as amended by
11 Section 2 of Chapter 906 of the Statutes of 2014, is amended to
12 read:

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

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

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

26 (3) The voter shall be required to execute, in the presence of an
27 elections official, the written affirmation stating that the voter is

1 eligible to vote and registered in the county where the voter desires
2 to vote.

3 (b) Once voted, the voter's ballot shall be sealed in a provisional
4 ballot envelope, and the ballot in its envelope shall be deposited
5 in the ballot box. All provisional ballots voted shall remain sealed
6 in their envelopes for return to the elections official in accordance
7 with the elections official's instructions. The provisional ballot
8 envelopes specified in this subdivision shall be a color different
9 than the color of, but printed substantially similar to, the envelopes
10 used for vote by mail ballots, and shall be completed in the same
11 manner as vote by mail envelopes.

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

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

34 (3) (A) The provisional ballot of a voter who is otherwise
35 entitled to vote shall not be rejected ~~because the~~ *for either of the*
36 *following reasons:*

37 (i) *The address provided by the voter on the provisional ballot*
38 *differs from the address contained in the voter's affidavit of*
39 *registration.*

1 (ii) The voter did not cast his or her ballot in the precinct to
2 which he or she was assigned by the elections official.

3 ~~(A)~~

4 (B) (i) If the ballot cast by the voter contains the same
5 candidates and measures on which the voter would have been
6 entitled to vote in his or her assigned precinct, the elections official
7 shall count the votes for the entire ballot.

8 ~~(B)~~

9 (ii) If the ballot cast by the voter contains candidates or measures
10 on which the voter would not have been entitled to vote in his or
11 her assigned precinct, the elections official shall count only the
12 votes for the candidates and measures on which the voter was
13 entitled to vote in his or her assigned precinct.

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

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

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

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

25 *SEC. 3. Section 14310 of the Elections Code, as amended by*
26 *Section 3 of Chapter 906 of the Statutes of 2014, is amended to*
27 *read:*

28 14310. (a) At all elections, a voter claiming to be properly
29 registered, but whose qualification or entitlement to vote cannot
30 be immediately established upon examination of the index of
31 registration for the precinct or upon examination of the records on
32 file with the county elections official, shall be entitled to vote a
33 provisional ballot as follows:

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

36 (2) The voter shall be provided a provisional ballot, written
37 instructions regarding the process and procedures for casting the
38 ballot, and a written affirmation regarding the voter’s registration
39 and eligibility to vote. The written instructions shall include the
40 information set forth in subdivisions (c) and (d).

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

5 (b) Once voted, the voter's ballot shall be sealed in a provisional
6 ballot envelope, and the ballot in its envelope shall be deposited
7 in the ballot box. All provisional ballots voted shall remain sealed
8 in their envelopes for return to the elections official in accordance
9 with the elections official's instructions. The provisional ballot
10 envelopes specified in this subdivision shall be of a color different
11 than the color of, but printed substantially similar to, the envelopes
12 used for vote by mail ballots, and shall be completed in the same
13 manner as vote by mail envelopes.

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

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

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

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

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

36 (B) A voter may seek the court order specified in this paragraph
37 regarding his or her own ballot at any time prior to completion of
38 the official canvass. Any judicial action or appeal shall have
39 priority over all other civil matters. A fee shall not be charged to

1 the claimant by the clerk of the court for services rendered in an
2 action under this section.

3 (3) (A) The provisional ballot of a voter who is otherwise
4 entitled to vote shall not be rejected ~~because the~~ *for either of the*
5 *following reasons:*

6 (i) *The address provided by the voter on the provisional ballot*
7 *differs from the address contained in the voter’s affidavit of*
8 *registration.*

9 (ii) *The voter did not cast his or her ballot in the precinct to*
10 *which he or she was assigned by the elections official.*

11 ~~(A)~~

12 (B) (i) If the ballot cast by the voter contains the same
13 candidates and measures on which the voter would have been
14 entitled to vote in his or her assigned precinct, the elections official
15 shall count the votes for the entire ballot.

16 ~~(B)~~

17 (ii) If the ballot cast by the voter contains candidates or measures
18 on which the voter would not have been entitled to vote in his or
19 her assigned precinct, the elections official shall count only the
20 votes for the candidates and measures on which the voter was
21 entitled to vote in his or her assigned precinct.

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

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

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

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32 ballot” may be used until the supply is exhausted.

33 ~~SECTION 1. It is the intent of the Legislature to enact~~
34 ~~legislation allowing in-person voting at county offices before the~~
35 ~~day of the election.~~