

AMENDED IN ASSEMBLY APRIL 6, 2015

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~~ add Chapter 4.5 (commencing with Section 2260) to Division 2 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1461, as amended, Gonzalez. Voter ~~residency~~ registration.

Existing law, the federal National Voter Registration Act of 1993, requires a state to, among other things, establish procedures to register a person to vote by application made simultaneously with an application for a new or renewal of a motor vehicle driver's license. The federal act requires the motor vehicle driver's license application to serve as an application for voter registration with respect to an election for federal office, unless the applicant fails to sign the application, and requires the application to be considered as updating the applicant's previous voter registration, if any. The federal act defines "motor vehicle driver's license" to include any personal identification document issued by a state motor vehicle authority.

Under existing state law, a person may not be registered to vote except by affidavit of registration. Existing law requires a properly executed affidavit of registration to be deemed effective upon receipt of the affidavit by the county elections official if the affidavit is submitted to the Department of Motor Vehicles on or before the 15th day before the

election. Existing state law requires the Department of Motor Vehicles and the Secretary of State to develop a process and the infrastructure to allow a person who is qualified to register to vote in the state to register to vote online.

This bill would require the Secretary of State and the Department of Motor Vehicles to establish the California New Motor Voter Program for the purpose of increasing opportunities for voter registration by any person who is qualified to be a voter. Under the program, the Department of Motor Vehicles would be required to electronically provide to the Secretary of State the records of each person who is issued an original or renewal of a driver's license, as specified. In turn, the Secretary of State would be required to provide those records to the county elections official of the county in which the person may be registered to vote and to notify the person that he or she will be registered to vote unless he or she declines to be registered within 21 days after the date that the Secretary of State issues the notice. If a person does not decline to be registered to vote within that time period, this bill would provide that the person's motor vehicle records shall constitute a completed affidavit of registration and the person shall be registered to vote. This bill would require the Secretary of State to adopt regulations to implement this program.

~~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.~~

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. Chapter 4.5 (commencing with Section 2260) is
2 added to Division 2 of the Elections Code, to read:

3
4 CHAPTER 4.5. CALIFORNIA NEW MOTOR VOTER PROGRAM
5

6 2260. This act shall be known and may be cited as the
7 California New Motor Voter Program.

8 2261. The Legislature finds and declares all of the following:

9 (a) Voter registration is one of the biggest barriers to
10 participation in our democracy.

11 (b) In 1993, Congress enacted the federal National Voter
12 Registration Act of 1993 (52 U.S.C. Sec. 20501 et seq.), commonly
13 known as the “Motor Voter Law,” with findings recognizing that
14 the right of citizens to vote is a fundamental right; it is the duty of
15 federal, state, and local governments to promote the exercise of
16 the right to vote; and the primary purpose of the act is to increase
17 the number of eligible citizens who register to vote.

18 (c) In 2014, with nearly 7 million Californians eligible to vote
19 but not registered, California ranks 38th among the 50 states in
20 voter registration.

21 (d) In the 2014 elections, voter turnout nationwide was the
22 lowest since World War II, with California ranking 43rd in voter
23 participation.

24 (e) Voting laws and practices have evolved over time with the
25 goal of increasing voter participation, as illustrated by the history
26 of vote by mail. While going to the polls on election day was once
27 the only option for voting, vote by mail voting initially provided
28 an alternate means of voting for voters with an excuse for being
29 absent on election day, then it became an option available to any
30 voter, and eventually the law allowed for permanent vote by mail
31 voters who are automatically sent a vote by mail ballot for every
32 election.

33 (f) Similarly, the federal Motor Voter Law was enacted more
34 than 20 years ago based on a paper voter registration process,
35 but may now use modern electronic data technologies to make

1 voter registration easier, more convenient, and more efficient,
2 while also preserving citizens' choice to decline to be registered
3 or cancel their registration at any time.

4 (g) It is the intent of the Legislature to enact the California New
5 Motor Voter Program to provide California citizens additional
6 opportunities to participate in democracy through exercise of their
7 fundamental right to vote.

8 2262. The Secretary of State and the Department of Motor
9 Vehicles shall establish the California New Motor Voter Program
10 for the purpose of increasing opportunities for voter registration
11 by any person who is qualified to be a voter under Section 2 of
12 Article II of the California Constitution.

13 2263. (a) (1) Except as provided in paragraph (2), the
14 Secretary of State, in consultation with the Department of Motor
15 Vehicles, shall establish a schedule for the department to
16 electronically provide to the Secretary of State the records of a
17 person who is issued an original or renewal of a driver's license
18 pursuant to Article 3 (commencing with Section 12800) of Chapter
19 1 of Division 6 of the Vehicle Code. The department shall
20 electronically provide to the Secretary of State the records in
21 accordance with the established schedule. The records shall
22 include the person's name, age, residence address, and electronic
23 signature.

24 (2) The department shall not electronically provide the records
25 of a person who is issued a driver's license pursuant to Section
26 12801.9 of the Vehicle Code because he or she is unable to submit
27 satisfactory proof that his or her presence in the United States is
28 authorized under federal law.

29 (b) Upon receipt of records pursuant to subdivision (a), the
30 Secretary of State shall provide the records to the county elections
31 official of the county in which the person may be registered to
32 vote, unless the Secretary of State determines that the person is
33 not eligible to register to vote or is already registered to vote.

34 (c) The Secretary of State shall notify each person whose records
35 are sent to a county elections official of all of the following:

36 (1) That he or she will be registered to vote unless he or she
37 declines to be registered within 21 days after the date that the
38 Secretary of State issues the notification.

39 (2) The method by which he or she may decline to be registered
40 to vote.

1 (3) *The method by which he or she may include his or her*
2 *political party preference on his or her voter registration.*

3 (d) *If a person notified under subdivision (c) does not decline*
4 *to be registered to vote within 21 days after the date that the*
5 *Secretary of State issues the notification, the person's records*
6 *shall constitute a completed affidavit of registration and the person*
7 *shall be registered to vote.*

8 2264. *A person registered to vote may cancel his or her voter*
9 *registration at any time by submitting a request to the county*
10 *elections official pursuant to Section 2201.*

11 2265. *This chapter does not affect the confidentiality of a*
12 *person's voter registration information, which remains confidential*
13 *pursuant to Section 2194 of this code and Section 6254.4 of the*
14 *Government Code and for all of the following persons:*

15 (a) *A victim of domestic violence, sexual assault, or stalking*
16 *pursuant to Section 2166.5.*

17 (b) *A reproductive health care service provider, employee,*
18 *volunteer, or patient pursuant to Section 2166.5.*

19 (c) *A public safety officer pursuant to Section 2166.7.*

20 (d) *A person with a life-threatening circumstance upon court*
21 *order pursuant to Section 2166.*

22 2266. *The Secretary of State shall adopt regulations to*
23 *implement this chapter.*

24 ~~SECTION 1. Section 2027 of the Elections Code is amended~~
25 ~~to read:~~

26 ~~2027. (a) The place where a person's family is domiciled is~~
27 ~~his or her domicile unless it is a place for temporary establishment~~
28 ~~for his or her family or for transient objects.~~

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

33 ~~SEC. 2. Section 14310 of the Elections Code, as amended by~~
34 ~~Section 2 of Chapter 906 of the Statutes of 2014, is amended to~~
35 ~~read:~~

36 ~~14310. (a) At all elections, a voter claiming to be properly~~
37 ~~registered, but whose qualification or entitlement to vote cannot~~
38 ~~be immediately established upon examination of the index of~~
39 ~~registration for the precinct or upon examination of the records on~~

1 file with the county elections official, shall be entitled to vote a
2 provisional ballot as follows:

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

5 (2) The voter shall be provided a provisional ballot, written
6 instructions regarding the process and procedures for casting the
7 provisional ballot, and a written affirmation regarding the voter's
8 registration and eligibility to vote. The written instructions shall
9 include the information set forth in subdivisions (c) and (d).

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

14 (b) Once voted, the voter's ballot shall be sealed in a provisional
15 ballot envelope, and the ballot in its envelope shall be deposited
16 in the ballot box. All provisional ballots voted shall remain sealed
17 in their envelopes for return to the elections official in accordance
18 with the elections official's instructions. The provisional ballot
19 envelopes specified in this subdivision shall be a color different
20 than the color of, but printed substantially similar to, the envelopes
21 used for vote by mail ballots, and shall be completed in the same
22 manner as vote by mail envelopes.

23 (c) (1) During the official canvass, the elections official shall
24 examine the records with respect to all provisional ballots cast.
25 Using the procedures that apply to the comparison of signatures
26 on vote by mail ballots pursuant to Section 3019, the elections
27 official shall compare the signature on each provisional ballot
28 envelope with the signature on the voter's affidavit of registration
29 or other signature in the voter's registration record. If the signatures
30 do not compare or the provisional ballot envelope is not signed,
31 the ballot shall be rejected. A variation of the signature caused by
32 the substitution of initials for the first or middle name, or both,
33 shall not invalidate the ballot.

34 (2) Provisional ballots shall not be included in any semiofficial
35 or official canvass, except upon: (A) the elections official's
36 establishing prior to the completion of the official canvass, from
37 the records in his or her office, the claimant's right to vote; or (B)
38 the order of a superior court in the county of the voter's residence.
39 A voter may seek the court order specified in this paragraph
40 regarding his or her own ballot at any time prior to completion of

1 the official canvass. Any judicial action or appeal shall have
2 priority over all other civil matters. A fee shall not be charged to
3 the claimant by the clerk of the court for services rendered in an
4 action under this section.

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

8 (i) The address provided by the voter on the provisional ballot
9 differs from the address contained in the voter's affidavit of
10 registration.

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

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

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.

31 (g) Any existing supply of envelopes marked "special-challenged
32 ballot" may be used until the supply is exhausted.

33 SEC. 3. Section 14310 of the Elections Code, as amended by
34 Section 3 of Chapter 906 of the Statutes of 2014, is amended to
35 read:

36 14310. (a) At all elections, a voter claiming to be properly
37 registered, but whose qualification or entitlement to vote cannot
38 be immediately established upon examination of the index of
39 registration for the precinct or upon examination of the records on

1 ~~file with the county elections official, shall be entitled to vote a~~
2 ~~provisional ballot as follows:~~

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

5 ~~(2) The voter shall be provided a provisional ballot, written~~
6 ~~instructions regarding the process and procedures for casting the~~
7 ~~ballot, and a written affirmation regarding the voter's registration~~
8 ~~and eligibility to vote. The written instructions shall include the~~
9 ~~information set forth in subdivisions (c) and (d).~~

10 ~~(3) The voter shall be required to execute, in the presence of an~~
11 ~~elections official, the written affirmation stating that the voter is~~
12 ~~eligible to vote and registered in the county where the voter desires~~
13 ~~to vote.~~

14 ~~(b) Once voted, the voter's ballot shall be sealed in a provisional~~
15 ~~ballot envelope, and the ballot in its envelope shall be deposited~~
16 ~~in the ballot box. All provisional ballots voted shall remain sealed~~
17 ~~in their envelopes for return to the elections official in accordance~~
18 ~~with the elections official's instructions. The provisional ballot~~
19 ~~envelopes specified in this subdivision shall be of a color different~~
20 ~~than the color of, but printed substantially similar to, the envelopes~~
21 ~~used for vote by mail ballots, and shall be completed in the same~~
22 ~~manner as vote by mail envelopes.~~

23 ~~(c) (1) During the official canvass, the elections official shall~~
24 ~~examine the records with respect to all provisional ballots cast.~~
25 ~~Using the procedures that apply to the comparison of signatures~~
26 ~~on vote by mail ballots pursuant to Section 3019, the elections~~
27 ~~official shall compare the signature on each provisional ballot~~
28 ~~envelope with the signature on the voter's affidavit of registration~~
29 ~~or other signature in the voter's registration record. If the signatures~~
30 ~~do not compare or the provisional ballot envelope is not signed,~~
31 ~~the ballot shall be rejected. A variation of the signature caused by~~
32 ~~the substitution of initials for the first or middle name, or both,~~
33 ~~shall not invalidate the ballot.~~

34 ~~(2) (A) Provisional ballots shall not be included in any~~
35 ~~semiofficial or official canvass, except under one or more of the~~
36 ~~following conditions:~~

37 ~~(i) The elections official establishes prior to the completion of~~
38 ~~the official canvass, from the records in his or her office, the~~
39 ~~claimant's right to vote.~~

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

4 ~~(iii) Upon the order of a superior court in the county of the~~
5 ~~voter's residence.~~

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

12 ~~(3) (A) The provisional ballot of a voter who is otherwise~~
13 ~~entitled to vote shall not be rejected for either of the following~~
14 ~~reasons:~~

15 ~~(i) The address provided by the voter on the provisional ballot~~
16 ~~differs from the address contained in the voter's affidavit of~~
17 ~~registration.~~

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

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

24 ~~(ii) If the ballot cast by the voter contains candidates or measures~~
25 ~~on which the voter would not have been entitled to vote in his or~~
26 ~~her assigned precinct, the elections official shall count only the~~
27 ~~votes for the candidates and measures on which the voter was~~
28 ~~entitled to vote in his or her assigned precinct.~~

29 ~~(d) The Secretary of State shall establish a free access system~~
30 ~~that any voter who casts a provisional ballot may access to discover~~
31 ~~whether the voter's provisional ballot was counted and, if not, the~~
32 ~~reason why it was not counted.~~

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

35 ~~(f) This section shall apply to any vote by mail voter described~~
36 ~~by Section 3015 who is unable to surrender his or her unvoted vote~~
37 ~~by mail voter's ballot.~~

- 1 ~~(g) Any existing supply of envelopes marked “special-challenged~~
- 2 ~~ballot” may be used until the supply is exhausted.~~

O