

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2071

Introduced by Assembly Member Harper
(Coauthors: Assembly Members Gallagher and Gatto)
(Coauthor: Senator Bates)

February 17, 2016

An act to amend Sections 3020 and 4103 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 2071, as amended, Harper. Vote by mail ballots.

Existing law requires that all vote by mail ballots cast be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day or no later than 8 p.m. on election day, as specified.

Notwithstanding this requirement, existing law provides that a vote by mail ballot is considered timely cast if it is received by the voter's election official via the United States Postal Service or a bona fide private mail delivery company no later than 3 days after election day if a specified requirement is met.

This bill would define "bona fide private mail delivery company" for purposes of the above-described exception for ballots delivered after election day. The bill would require a person delivering vote by mail envelopes received by a bona fide private mail delivery company to present satisfactory proof, as determined by the elections official, of the company's status as a bona fide private mail delivery company in order to process ballot envelopes. The bill would also require the elections official to retain the ballot and envelope of a vote by mail

ballot delivered after election day by a bona fide private mail delivery company if the envelope has no postmark, a postmark with no date, or an illegible postmark for further evaluation in the event of an election contest.

By imposing new requirements on local elections 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.

~~Existing law allows a voter to apply for a vote by mail ballot, and requires a completed vote by mail ballot to be signed, returned, and counted in accordance with specified procedures. Existing law requires that all vote by mail ballots cast be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day.~~

~~This bill would declare the intent of the Legislature to enact legislation related to the processing and receipt of vote by mail ballots.~~

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 3020 of the Elections Code is amended
- 2 to read:
- 3 3020. (a) All vote by mail ballots cast under this division shall
- 4 be received by the elections official from whom they were obtained
- 5 or by the precinct board no later than the close of the polls on
- 6 election day.
- 7 (b) (1) Notwithstanding subdivision (a), any vote by mail ballot
- 8 cast under this division shall be timely cast if it is received by the
- 9 voter's elections official via the United States Postal Service or a
- 10 bona fide private mail delivery company no later than three days
- 11 after election day and either of the following is satisfied:
- 12 (1)

1 (A) The ballot is postmarked on or before election day or is time
2 stamped or date stamped by a bona fide private mail delivery
3 company on or before election day.

4 ~~(2)~~

5 (B) If the ballot has no postmark, a postmark with no date, or
6 an illegible postmark, the vote by mail ballot identification
7 envelope is date stamped by the elections official upon receipt of
8 the vote by mail ballot from the United States Postal Service or a
9 bona fide private mail delivery company, and is signed and dated
10 pursuant to Section 3011 on or before election day.

11 (2) (A) *A person delivering vote by mail ballot envelopes*
12 *received by a bona fide private mail delivery company pursuant*
13 *to this subdivision shall present satisfactory proof, as determined*
14 *by the elections official, of the company's status as a bona fide*
15 *private mail delivery company in order for the ballot envelopes to*
16 *be processed. If the person cannot provide proof, the elections*
17 *official shall not process the ballot envelopes but shall instead*
18 *retain the ballot envelopes in the event of an election contest.*

19 (B) *If a vote by mail ballot envelope is delivered after election*
20 *day by a bona fide private mail delivery company and the envelope*
21 *has no postmark, a postmark with no date, or an illegible postmark,*
22 *the elections official shall retain the ballot envelope and ballot for*
23 *further evaluation in the event of an election contest.*

24 (c) *For purposes of this section, "bona fide private mail delivery*
25 *company" means a for-profit courier service that is in the regular*
26 *business of accepting a mail item, package, or parcel for the*
27 *purpose of delivery, at a cost, to a person or entity whose address*
28 *is specified on the item. A bona fide private mail delivery company*
29 *includes, but is not limited to, DHL, Federal Express Corporation,*
30 *and United Parcel Service.*

31 *SEC. 2. Section 4103 of the Elections Code is amended to read:*

32 4103. (a) Notwithstanding Section 3020, ballots cast under
33 this chapter shall be returned to the elections official from whom
34 they were obtained no later than 8 p.m. on election day.

35 (b) (1) Notwithstanding subdivision (a), any vote by mail ballot
36 cast under this chapter shall be timely cast if it is received by the
37 voter's elections official via the United States Postal Service or a
38 bona fide private mail delivery company no later than three days
39 after election day and either of the following is satisfied:

40 ~~(1)~~

1 (A) The ballot is postmarked on or before election day or is time
 2 stamped or date stamped by a bona fide private mail delivery
 3 company on or before election day.

4 (2)

5 (B) If the ballot has no postmark, a postmark with no date, or
 6 an illegible postmark, the vote by mail ballot identification
 7 envelope is date stamped by the elections official upon receipt of
 8 the vote by mail ballot from the United States Postal Service or a
 9 bona fide private mail delivery company, and is signed and dated
 10 pursuant to Section 3011 on or before election day.

11 (2) (A) *A person delivering vote by mail ballot envelopes*
 12 *received by a bona fide private mail delivery company pursuant*
 13 *to this subdivision shall present satisfactory proof, as determined*
 14 *by the elections official, of the company’s status as a bona fide*
 15 *private mail delivery company in order for the ballot envelopes to*
 16 *be processed. If the person cannot provide proof, the elections*
 17 *official shall not process the ballot envelopes but shall instead*
 18 *retain the ballot envelopes in the event of an election contest.*

19 (B) *If a vote by mail ballot envelope is delivered after election*
 20 *day by a bona fide private mail delivery company and the envelope*
 21 *has no postmark, a postmark with no date, or an illegible postmark,*
 22 *the elections official shall retain the ballot envelope and ballot for*
 23 *further evaluation in the event of an election contest.*

24 (c) *For purposes of this section, “bona fide private mail delivery*
 25 *company” means a for-profit courier service that is in the regular*
 26 *business of accepting a mail item, package, or parcel for the*
 27 *purpose of delivery, at a cost, to a person or entity whose address*
 28 *is specified on the item. A bona fide private mail delivery company*
 29 *includes, but is not limited to, DHL, Federal Express Corporation,*
 30 *and United Parcel Service.*

31 *SEC. 3. If the Commission on State Mandates determines that*
 32 *this act contains costs mandated by the state, reimbursement to*
 33 *local agencies and school districts for those costs shall be made*
 34 *pursuant to Part 7 (commencing with Section 17500) of Division*
 35 *4 of Title 2 of the Government Code.*

36 ~~SECTION 1. It is the intent of the Legislature to enact~~
 37 ~~legislation related to the processing and receipt of vote by mail~~
 38 ~~ballots.~~