

## Assembly Bill No. 1711

### CHAPTER 451

An act to amend Sections 14310 and 15310 of the Elections Code, relating to elections.

[Approved by Governor September 2, 1995. Filed with Secretary of State September 5, 1995.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1711, McPherson. Elections: election results.

(1) Under existing law, when a voter claims to be properly registered but his or her qualification or entitlement to vote cannot be immediately established by examination of applicable precinct or county elections records, the elections official is required to permit the voter to vote a provisional ballot. Thereafter, the ballot must be included in the official canvass if the elections official establishes the voter's right to vote.

This bill would provide that a provisional ballot shall not be rejected by the elections official because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official, provided that the provisional ballot contained only the candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct.

(2) Existing law requires all elections officials in the state to canvass the returns of each election they supervise. As part of the canvass, elections officials are required to prepare a certified statement of all the results of the election and submit it to their governing body within 28 days of the election, as specified. All elections officials also are required to mail to the Secretary of State "forthwith" a complete copy of all returns relating to all state candidates and measures, specified judicial offices, and federal candidates.

This bill would create a state-mandated local program by requiring elections officials to mail a complete copy of all returns relating to all state candidates and measures, specified judicial offices, and federal offices to the Secretary of State within 35 days of the election.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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

SECTION 1. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot.

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

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this section regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the provisional ballots.

(4) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official, provided the ballot cast by the voter contained only the candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct.

(d) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.



(e) This section shall not apply to the situation described in Section 2227. This section shall apply to any absent voter described by Section 3015 who is unable to surrender his or her unvoted absent voter's ballot.

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

SEC. 2. Section 15310 of the Elections Code is amended to read:

15310. The elections official shall send to the Secretary of State within 35 days of the election by registered mail one complete copy of all returns as to:

- (a) All candidates voted for statewide office.
- (b) All candidates voted for the following offices:
  - (1) Member of the Assembly.
  - (2) Member of the Senate.
  - (3) Representative in Congress.
  - (4) Member of the State Board of Equalization.
  - (5) Judge, except judge of an inferior court.

(c) All persons voted for at the presidential primary. The returns for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed first and shall be sent separately within 20 days after the election.

(d) At presidential elections, the vote given for persons for electors of President and Vice President of the United States. The returns for presidential electors shall be endorsed "Presidential Election Returns," and sent separately.

(e) All statewide measures.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

