

AMENDED IN ASSEMBLY APRIL 14, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1094

Introduced by Assembly Member Hertzberg

(Coauthors: Assembly Members *Alquist*, Aroner, Calderon, Cedillo, Firebaugh, Havice, Keeley, Kuehl, Mazzoni, Migden, Romero, Scott, Shelley, Steinberg, Thomson, and Washington)

(Coauthors: Senators Bowen, Hayden, Solis, and Vasconcellos)

February 25, 1999

An act to *amend Section 14310 of, and to add Article 6* (commencing with Section 14320) to Chapter 3 of Division 14 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1094, as amended, Hertzberg. Voter registration: elections.

Existing law permits a voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address, upon showing proof of current residence, to vote a provisional ballot at the polling place for his or her current residence address, at the office of the county elections official, or at other designated central voting locations. Existing law authorizes the Secretary of State

to adopt appropriate regulations for determining the validity of provisional ballots.

This bill would authorize every voter who qualifies to vote under the Elections Code and the California Constitution, and who on election day registers or reregisters to vote at a polling place in his or her precinct or at the office of the county elections official, to cast a provisional ballot at that election.

This bill would require a voter to properly execute a voter registration affidavit before being entitled to cast the provisional ballot. It would require the regulations adopted by the Secretary of State for the verification of provisional ballots to apply to voter registration on election day under this bill to the extent practicable. It would require the elections official to send a voter notification form to a person who registers or reregisters to vote on election day. *Persons who are unable to prove residency on elections day would be permitted to cast a provisional ballot and the elections official would be required to mail that person a voter notification form within 10 days of the election. A provisional ballot cast under those circumstances would be counted upon establishing the person's qualification to vote.*

This bill would require the county elections official to compile a list or index of voters who register or reregister to vote on election day. It would require the county elections official, not later than 30 days after the canvass of votes for the election, to conduct a review of names on the list or index and cancel any duplicate registrations that may exist.

Existing law requires that during the official canvass the elections official examine the records with respect to all provisional ballots cast and prohibits provisional ballots from being included in any semiofficial or official canvass, except as specified.

This bill would permit provisional ballots that are voted by voters who register on election day to be included in any semiofficial or official canvass.

This bill, by placing new duties on county elections officials with respect to affidavits of voter registration and provisional ballots, would thereby 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, 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, 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.

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

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

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

3 14310. (a) At all elections, a voter claiming to be
4 properly registered, and whose qualification or
5 entitlement to vote cannot be immediately established
6 upon examination of the index of registration for the
7 precinct or upon examination of the records on file with
8 the county elections official, shall be entitled to vote a
9 provisional ballot.

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

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

23 (2) Provisional ballots shall not be included in any
24 semiofficial or official canvass, except ~~upon~~ *under any of*



1 *the following conditions:* (A) the elections ~~official's~~
 2 ~~establishing~~ *official establishes* prior to the completion of
 3 the official canvass, from the records in his or her office,
 4 the claimant's right to vote; (B) *the votes have been cast*
 5 *in accordance with Article 6 (commencing with Section*
 6 *14320);* or ~~(B)~~ (C) the order of a superior court in the
 7 county of the voter's residence. A voter may seek the
 8 court order specified in this section regarding his or her
 9 own ballot at any time prior to completion of the official
 10 canvass. Any judicial action or appeal shall have priority
 11 over all other civil matters.

12 (3) A precinct board member shall notify the voter of
 13 the contents of this subdivision at the time of receiving
 14 the provisional ~~ballots~~ *ballot*.

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

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

25 (e) This section ~~shall~~ *does* not apply to the situation
 26 described in Section 2227. This section ~~shall apply~~ *applies*
 27 to any absent voter described by Section 3015 who is
 28 unable to surrender his or her unvoted absent voter's
 29 ballot.

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

33 *SEC. 2.* Article 6 (commencing with Section 14320) is
 34 added to Chapter 3 of Division 14 of the Elections Code,
 35 to read:

36
 37 Article 6. Election Day Registration and Voting

38
 39 14320. Every elector who qualifies to vote under this
 40 code and Section 2 of Article II of the California



1 Constitution, and who on election day registers or
2 reregisters to vote at a polling place in his or her precinct
3 or at the office of the county elections official, may cast
4 a ballot for the election held within the ~~territory~~ precinct
5 within which he or she resides and the election is held.

6 14321. A person who registers or reregisters to vote on
7 the day of the election pursuant to this article may cast a
8 provisional ballot at that election as provided in Section
9 14310.

10 14322. (a) A voter shall properly execute a voter
11 registration affidavit before being entitled to cast a
12 provisional ballot. The county elections official shall
13 provide voter registration forms for use in registration at
14 the voting location.

15 (b) The procedures for registration under Section
16 14311 shall apply to registration under this article to the
17 extent practicable.

18 (c) *A person who is unable to fulfill the procedures for*
19 *registration under Section 14311 shall be permitted to*
20 *vote a provisional ballot pursuant to Section 14310. The*
21 *elections official shall mail a voter notification form to*
22 *that person within 10 days of the election. The provisional*
23 *ballot cast by that person shall be counted upon*
24 *establishing the person's qualification to vote.*

25 (d) The elections official shall send a voter notification
26 form within 15 days after the date of the election to any
27 person who is properly registered or reregistered to vote
28 pursuant to this article. The voter shall be registered at
29 that address for future elections.

30 14323. The county elections official shall compile a list
31 or index of voters who registered or reregistered to vote
32 pursuant to this article. Not later than 30 days after the
33 canvass of the votes for the election, the county elections
34 official shall conduct a review of the names on the list or
35 index and cancel any duplicate voter registrations that
36 may exist.

37 ~~SEC. 2.—~~

38 SEC. 3. Notwithstanding Section 17610 of the
39 Government Code, if the Commission on State Mandates
40 determines that this act contains costs mandated by the



1 state, reimbursement to local agencies and school
2 districts for those costs shall be made pursuant to Part 7
3 (commencing with Section 17500) of Division 4 of Title
4 2 of the Government Code. If the statewide cost of the
5 claim for reimbursement does not exceed one million
6 dollars (\$1,000,000), reimbursement shall be made from
7 the State Mandates Claims Fund.

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