

AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 714

Introduced by Assembly Member Leno

February 19, 2003

An act to amend Sections 19225, 19226, 19227, 19227.5, and 19229 of the Elections Code, relating to voting.

LEGISLATIVE COUNSEL'S DIGEST

AB 714, as amended, Leno. Accessible voting.

Under existing law, a county is required to provide at least one voting unit at each polling place, to provide access to persons who are visually impaired, so long as sufficient funds from specified federal sources are available.

This bill would include within this requirement persons who are mobility impaired, so long as funds are available from the federal sources identified under existing law. The bill would add a federal source for this purpose, namely the Help America Vote Act (P.L. 107-252) *and would require that at least one accessible voting unit be available at each polling place commencing no later than January 1, 2006.*

Under existing law, county election officials are not required to make polling places accessible to persons with physical disabilities, except for voting machines used in federal elections.

This bill would provide that for all elections, county election officials ~~plan for and provide information about accessibility to persons with physical disabilities using polling places, to do outreach and train poll workers about the availability of accessible polling places, and to shall~~

report to the Secretary of State their efforts to ~~the Secretary of State~~ make polling places accessible to individuals with disabilities and impairments. By increasing the duties of 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, 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 19225 of the Elections Code is amended
- 2 to read:
- 3 19225. The Legislature finds and declares as follows:
- 4 (a) Microchip and digital technologies are increasingly
- 5 changing the way Americans vote.
- 6 (b) State and political subdivisions are replacing antiquated
- 7 voting methods and machines with computer and electronic-based
- 8 voting systems, but nonvisual access, whether by speech, braille,
- 9 or other appropriate means, is often overlooked in certifying and
- 10 purchasing the latest voting technology.
- 11 (c) Voting technology and systems that allow the voter to
- 12 access and select information solely through a visual means are a
- 13 barrier to access by individuals who are blind or visually impaired,
- 14 thereby discouraging them from exercising the right to vote, the
- 15 most fundamental right of citizenship in a free and democratic
- 16 society.
- 17 (d) Software and hardware adaptations have been created so
- 18 that voters can interact with voting technology and systems
- 19 through both visual and nonvisual means allowing blind and



1 visually impaired people to cast a secret ballot and independently
2 verify their vote.

3 (e) In promoting full participation in the electoral process, the
4 goals of the state and its political subdivisions must recognize the
5 incontrovertible right of all citizens regardless of blindness or
6 visual impairment to vote.

7 (f) This right must include the opportunity for individuals who
8 are blind or visually impaired to cast and verify their ballots
9 independently.

10 (g) As voting technology advances and as the state and its
11 political subdivisions employ new voting equipment to address the
12 needs of voters, innovative solutions must be applied in a
13 comprehensive way that improves and increases access for all
14 those who have heretofore been unable to cast a ballot
15 independently and privately.

16 (h) It is vital for the state as soon as practicable to extend to all
17 its citizens full access to the ballot regardless of visual or mobility
18 impairment.

19 SEC. 2. Section 19226 of the Elections Code is amended to
20 read:

21 19226. As used in this article:

22 (a) "Access" means the ability of an individual independently
23 and without assistance to receive, use, select, and manipulate data
24 and operate controls included in voting technology and systems.

25 (b) "Nonvisual" means synthesized speech, braille, and other
26 output methods not requiring sight.

27 SEC. 3. Section 19227 of the Elections Code is amended to
28 read:

29 19227. (a) The Secretary of State shall adopt rules and
30 regulations governing any voting technology and systems used by
31 the state or any political subdivision that provide blind and visually
32 impaired individuals and individuals with mobility impairment or
33 who achieve mobility in an assisted fashion such as a wheelchair
34 with access that is equivalent to that provided to individuals who
35 are not blind, visually impaired, or mobility impaired, including
36 the ability for the voter to cast and verify all selections made by
37 both visual and nonvisual means.

38 (b) ~~At~~ *Commencing no later than January 1, 2006, at each*
39 *polling place, at least one voting unit approved pursuant to*
40 *subdivision (a) by the Secretary of State shall provide access to*



1 individuals who are blind, visually impaired, or mobility
2 impaired.

3 ~~(e) Each county elections official shall develop a plan for~~
4 ~~making polling places, including paths of travel, entrances, exits,~~
5 ~~and voting areas of each polling place, accessible to persons with~~
6 ~~physical disabilities in a manner that provides the same~~
7 ~~opportunity for access and participation, including privacy and~~
8 ~~independence, as other voters enjoy.~~

9 ~~(d) Each county elections official shall provide individuals~~
10 ~~with physical disabilities and others with information about the~~
11 ~~accessibility of polling places, develop outreach programs to~~
12 ~~inform individuals about the availability of accessible polling~~
13 ~~places, and train election officials, poll workers, and election~~
14 ~~volunteers on how best to promote the access and participation of~~
15 ~~individuals with disabilities in elections.~~

16 ~~(e) Plans developed pursuant to subdivisions (c) and (d) shall~~
17 ~~describe the activities undertaken to address the goal of achieving~~
18 ~~access and shall be used for the purposes of securing federal~~
19 ~~funding pursuant to Section 261, et seq., of the Help America Vote~~
20 ~~Act of 2002 (P.L. 107-252).~~

21 ~~(f)~~

22 (c) Each county shall report in ways and at times deemed
23 appropriate by the Secretary of State on expenditure of funds,
24 activities, and progress toward improving access to polling places
25 for persons with visual impairment, mobility impairment, and
26 physical disabilities.

27 ~~(g)~~

28 (d) A local agency is not required to comply with subdivision
29 (b) unless sufficient funds are available to implement that
30 provision. Funds received from the proceeds of the Voting
31 Modernization Bond Act of 2002 (Article 3 (commencing with
32 Section 19230), from federal funds made available to purchase
33 new voting systems, from federal funds provided pursuant to the
34 Help America Vote Act of 2002 (P.L. 107-252), or from any other
35 source except the General Fund, shall be used for that purpose.

36 SEC. 4. Section 19227.5 of the Elections Code is amended to
37 read:

38 19227.5. In requiring nonvisual access and access by those
39 with any mobility impairment pursuant to this article, the
40 Secretary of State shall obtain recommendations from



1 representatives of blind consumer organizations, representatives
2 of disabled groups, experts in accessible software and hardware
3 design, and any other individual or organization the Secretary of
4 State determines to be appropriate.

5 SEC. 5. Section 19229 of the Elections Code is amended to
6 read:

7 19229. (a) A person injured by a violation of this article may
8 maintain an action for injunctive relief to enforce this article.

9 (b) An action for injunctive relief shall be commenced within
10 four years after the cause of action accrues.

11 (c) For the purposes of this section, a cause of action for a
12 continuing violation accrues at the time of the latest violation.

13 (d) Notwithstanding any other law, no action may be brought
14 against the state or any of its political subdivisions on the basis of
15 information contained in plans, reports, or applications for
16 funding required under subdivision (c), (d), (e), or (f) of Section
17 19227, except in cases of liability resulting from criminal acts or
18 omissions.

19 SEC. 6. Notwithstanding Section 17610 of the Government
20 Code, if the Commission on State Mandates determines that this
21 act contains costs mandated by the state, reimbursement to local
22 agencies and school districts for those costs shall be made pursuant
23 to Part 7 (commencing with Section 17500) of Division 4 of Title
24 2 of the Government Code. If the statewide cost of the claim for
25 reimbursement does not exceed one million dollars (\$1,000,000),
26 reimbursement shall be made from the State Mandates Claims
27 Fund.

