

Assembly Bill No. 1271

Passed the Assembly June 1, 2009

Chief Clerk of the Assembly

Passed the Senate August 31, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 3001, 3009, 3017 of, and to add Section 3025 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1271, Krekorian. Elections: vote by mail ballots.

Under existing law, an application for a vote by mail ballot shall be made by a voter to an elections official having jurisdiction over the election between the 29th and 7th days prior to the election. Existing law permits an elections official to deliver a vote by mail ballot to the voter, the voter's spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same household as the voter, so long as the individual to whom the ballot is delivered signs a statement under penalty of perjury that contains the name of the voter and affirms that the person receiving the ballot is 16 years of age or older and is authorized to deliver the vote by mail ballot. Existing law permits a voter who is unable to return his or her vote by mail ballot due to illness or other physical disability to designate his or her spouse, child, parent, grandparent, grandchild, sibling, or other person residing in the same household as the voter to return the vote by mail ballot. Except in the case of a candidate or the spouse of a candidate, existing law prohibits a person returning another voter's vote by mail ballot from being a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service.

This bill would provide that an application for a vote by mail ballot must be received by the elections official between the 29th and 7th days prior to the election. The bill would delete the requirement that the voter be physically unable to return the vote by mail ballot and, with specified exceptions, authorize any person to be designated in writing by the voter to receive or return the voter's vote by mail ballot. The bill would, with an exception, prohibit an authorized representative from being a candidate or the spouse of a candidate, or a paid or volunteer worker of a general

purpose committee, controlled committee, independent expenditure committee, political party, campaign committee of a candidate, or any other group or organization at whose behest the individual designated to receive the ballot, return the ballot, or both receive and return the ballot is performing a service.

Because the bill would change the duties of local elections officials, it 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.

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

SECTION 1. Section 3001 of the Elections Code is amended to read:

3001. Except as provided in Chapter 3 (commencing with Section 3200) and Sections 3007.5 and 3007.7, application for a vote by mail ballot shall be made in writing to and received by the elections official having jurisdiction over the election between the 29th and the 7th day prior to the election. The application shall be signed by the applicant and shall show his or her place of residence. An application received by the elections official prior to the 29th day shall be kept and processed during the application period.

SEC. 2. Section 3009 of the Elections Code is amended to read:

3009. (a) Upon receipt of a vote by mail ballot application signed by the voter that arrives within the proper time, the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The elections official may make this signature check upon receiving the voted ballot, but the signature must be compared before the vote by mail voter ballot is canvassed.

(b) If the elections official deems the applicant entitled to a vote by mail ballot, he or she shall deliver by mail or in person the appropriate ballot. The ballot may be delivered to the applicant or

an authorized representative of the applicant, except that in no case shall the ballot be delivered to an individual under 16 years of age. The elections official shall deliver the vote by mail ballot to the authorized representative of the applicant only if that person signs a statement attested to under penalty of perjury that provides the name of the applicant, and affirms that the person receiving the ballot is 16 years of age or older and is authorized by the applicant to deliver the vote by mail ballot.

(c) (1) If the elections official determines that an application does not contain all of the information prescribed in Section 3001 or 3006, or for any other reason is defective, and the elections official is able to ascertain the voter's address, the elections official shall, within one working day of receiving the application, mail the voter a vote by mail voter's ballot together with a notice. The notice shall inform the voter that the voter's vote by mail ballot shall not be counted unless the applicant provides the elections official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed vote by mail ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

(2) If the voter substantially complies with the requirements contained in the notice provided by the elections official, the voter's ballot shall be counted.

(3) In determining from the records of registration if the signature and residence address on the application appear to be the same as that on the original affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

SEC. 3. Section 3017 of the Elections Code is amended to read:

3017. (a) A vote by mail ballot cast under this division shall be voted on or before the day of the election. After marking the ballot, the vote by mail voter shall do either of the following: (1) return the ballot by mail or in person to the elections official from whom it came or (2) return the ballot in person to a member of a precinct board at a polling place within the jurisdiction. However, a vote by mail voter who is unable to return the ballot, may

designate an authorized representative to return the ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day.

(b) The elections official shall establish procedures to ensure the secrecy of a ballot returned to a precinct polling place and the security, confidentiality, and integrity of personal information collected, stored, or otherwise used pursuant to this section.

(c) On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. If the county does not have an elections division Internet Web site, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted vote by mail ballot was received.

(d) The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section.

SEC. 4. Section 3025 is added to the Elections Code, to read:

3025. For purposes of this chapter, "authorized representative" means a person who is designated in writing by a voter to the elections official to receive, return, or both receive and return the voter's vote by mail ballot. Except for an authorized representative of a candidate or the spouse of a candidate, an authorized representative shall not be a candidate or the spouse of a candidate, or a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, campaign committee of a candidate, or any other group or organization at whose behest the individual designated to receive the ballot, return the ballot, or both receive and return the ballot is performing a service.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2009

Governor