

AMENDED IN ASSEMBLY APRIL 13, 2009

SENATE BILL

No. 172

Introduced by Senator Florez

February 14, 2009

An act to amend Sections ~~2116~~, 2224, 2225, and 2226 of, ~~and to add Sections 2227 and 2228 to~~, the Elections Code, relating to voters.

LEGISLATIVE COUNSEL'S DIGEST

SB 172, as amended, Florez. Voter registration.

Under existing law, the registration of a voter is permanent for all purposes during his or her life, unless and until the affidavit of registration is ~~cancelled~~ *canceled* by a county elections official for a specified cause. Existing law authorizes a county elections official, if a voter has not voted in any election within the preceding 4 years, and the residence, address, name, or party affiliation of the voter has not been updated during that time, to send an alternate residency confirmation postcard that describes the alternate residency procedure. If a county uses the alternate residency confirmation procedure, the county is required to notify all voters of the procedure in the sample ballot pamphlet or in a separate mailing. A voter in that county is also given the opportunity to vote at a statewide primary or general election between the date of the notice and the beginning of the alternate residency procedure. Existing law further authorizes a county elections official to cancel the voter registration of a voter whose name has been placed on the inactive file of registered voters for failure to respond to a confirmation mailing or an address verification mailing and who does not offer to vote or vote at any election between the date of the mailing and 2 federal general elections after the date of that mailing.

This bill would instead provide that a county elections official may cancel the voter registration of a voter whose name has been placed on the inactive file of registered voters for failure to respond to a confirmation mailing or an address verification mailing and who does not offer to vote or vote at any election between the date of the mailing and 4 federal general *presidential* elections after the date of that mailing. ~~The bill would provide that when the voter registration of a voter is canceled, the voter may vote at a subsequent election and have his or her ballot counted, subject to specified restrictions, if he or she can establish proof of residency. If the voter votes at the subsequent election and offers proof of residency within the county where he or she was previously registered to vote, the name of a voter shall be placed on the active voter file.~~

~~The bill would further provide that if the voter votes at the subsequent election and offers proof of residency within a different county, the voter may cast a ballot only for statewide offices, statewide measures, a presidential candidate, or a candidate for United States Senate or House of Representatives. If a voter offers proof of residency within a different county, the elections official would be required to immediately notify the elections official of the county to which the voter has moved. Upon receipt of the notice, the elections official of the county to which the voter has moved would be required to send to the voter a voter registration card and to instruct the voter that the voter would be required to reregister on a new affidavit of registration.~~

~~The bill would provide that if the voter registration of a voter is canceled and the voter desires to vote in a subsequent election pursuant to this act and cannot show proof of residency, the voter may cast a provisional ballot.~~

By increasing duties of 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.

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 2116 of the Elections Code is amended~~
2 ~~to read:~~

3 ~~2116. (a) Whenever a voter, between the time of that person's~~
4 ~~last voter registration and the time for the closing of registration~~
5 ~~for any given election, has changed his or her residence address~~
6 ~~by moving, the voter shall execute a new affidavit of registration~~
7 ~~or a notice or a letter of the change of address as permitted in~~
8 ~~Section 2119, in order to be eligible to vote at the next election.~~

9 ~~(b) Notwithstanding subdivision (a), a voter who has changed~~
10 ~~his or her residence address by moving may vote at the election~~
11 ~~immediately following the change of residence if he or she is~~
12 ~~entitled to vote under Section 2035 or 14311.~~

13 ~~(c) Notwithstanding subdivision (a), a voter who has changed~~
14 ~~his or her residence address by moving may vote an election~~
15 ~~following the change of residence if he or she is entitled to vote~~
16 ~~under Section 2227.~~

17 ~~SEC. 2.~~

18 ~~SECTION 1.~~ Section 2224 of the Elections Code is amended
19 to read:

20 ~~2224. (a) If a voter has not voted in any election within the~~
21 ~~preceding four years, and his or her residence address, name, or~~
22 ~~party affiliation had not been updated during that time, the county~~
23 ~~elections official may send an alternate residency confirmation~~
24 ~~postcard. The use of this postcard may be sent subsequent to NCOA~~
25 ~~or sample ballot returns, but shall not be used in the residency~~
26 ~~confirmation process conducted under Section 2220. The postcard~~
27 ~~shall be forwardable, including a postage-paid and preaddressed~~
28 ~~return form to enable the voter to verify or correct the address~~
29 ~~information, and shall be in substantially the following form:~~

30 ~~"If the person named on the postcard is not at this address,~~
31 ~~PLEASE help keep the voter rolls current and save taxpayer dollars~~
32 ~~by returning this postcard to your mail carrier."~~

33 ~~"IMPORTANT NOTICE"~~

34 ~~"According to our records you have not voted in any election~~
35 ~~during the past four years, which may indicate that you no longer~~
36 ~~reside in ____ County. If you continue to reside in this county you~~
37 ~~must confirm your residency address in order to remain on the~~
38 ~~active voter list and receive election materials in the mail."~~

1 “If confirmation has not been received within 15 days, you may
2 be required to provide proof of your residence address in order to
3 vote at future elections and, if you do not appear or offer to vote
4 at any election in the period between the date of this notice and
5 the fourth ~~federal general~~ *presidential* election after the date of
6 this notice, your voter registration will be cancelled and you will
7 have to reregister in order to vote, ~~unless you can establish proof~~
8 ~~of residency in this county~~. If you no longer live in ____ County,
9 you must reregister at your new residence address in order to vote
10 in the next election. California residents may obtain a mail
11 registration form by calling the county elections office ~~of the~~
12 ~~Secretary of State’s Office~~ *or the Office of the Secretary of State.*”

13 (b) The use of a toll-free *telephone* number to confirm the old
14 residence address is optional. Any change to a voter’s address shall
15 be received in writing.

16 (c) Any county using the alternate residency confirmation
17 procedure shall notify all voters of the procedure in the sample
18 ballot pamphlet or in a separate mailing. The voter shall be given
19 an opportunity to vote at a statewide primary or general election
20 between the date of notice and the beginning of the alternate
21 residency procedure.

22 ~~SEC. 3.~~

23 *SEC. 2.* Section 2225 of the Elections Code is amended to read:

24 2225. (a) Based on change of address data received from the
25 United States Postal Service or its licensees, the county elections
26 official shall send a forwardable notice, including a postage-paid
27 and preaddressed return form, to enable the voter to verify or
28 correct address information.

29 Notification received through NCOA or Operation Mail that a
30 voter has moved and has given no forwarding address shall not
31 require the mailing of a forwardable notice to that voter.

32 (b) If a change of address indicates that the voter has moved to
33 a new residence address in the same county, the forwardable notice
34 shall be in substantially the following form:

35 “We have received notification that the voter has moved to a
36 new residence address in ____ County. You will be registered to
37 vote at your new address unless you notify our office within 15
38 days that the address to which this card was mailed is not a change
39 of your permanent residence. You must notify our office by either
40 returning the attached postage-paid postcard, or by calling toll

free. If this is not a permanent residence, and if you do not notify us within 15 days, you may be required to provide proof of your residence address in order to vote at future elections.”

(c) If change of address data indicates that the voter has moved to a new address in another county, the forwardable notice shall be in substantially the following form: “We have received notification that you have moved to a new address not in ____ County. Please use the attached postage-paid postcard to: (1) advise us if this is or is not a permanent change of residence address, or (2) to advise us if our information is incorrect. If you do not return this card within 15 days and continue to reside in ____ County, you may be required to provide proof of your residence address in order to vote at future elections and, if you do not offer to vote at any election in the period between the date of this notice and the fourth ~~federal-general~~ *presidential* election following this notice, your voter registration will be cancelled and you will have to reregister in order to vote, ~~unless you can establish proof of residency in this county.~~ If you no longer live in ____ County, you must reregister at your new residence address in order to vote in the next election. California residents may obtain a mail registration form by calling the county elections officer or 1-800-345-VOTE.”

(d) If postal service change-of-address data received from a nonforwardable mailing indicates that a voter has moved and left no forwarding address, a forwardable notice shall be sent in substantially the following form:

“We are attempting to verify postal notification that the voter to whom this card is addressed has moved and left no forwarding address. If the person receiving this card is the addressed voter, please confirm your continued residence or provide current residence information on the attached postage-paid postcard within 15 days. If you do not return this card and continue to reside in ____ County, you may be required to provide proof of your residence address in order to vote at future elections and, if you do not offer to vote at any election in the period between the date of this notice and the fourth ~~federal-general~~ *presidential* election following this notice, your voter registration will be cancelled and you will have to reregister in order to vote, ~~unless you can establish proof of residency in this county.~~ If you no longer live in ____ County, you must reregister at your new residence address in order to vote in the next election. California residents may obtain a mail

1 registration form by calling the county elections office or the
2 ~~Secretary of State's Office.~~ *Office of the Secretary of State.*"

3 (e) The use of a toll-free *telephone* number to confirm the old
4 residence address is optional. Any change to the voter address
5 must be received in writing.

6 ~~SEC. 4.~~

7 *SEC. 3.* Section 2226 of the Elections Code is amended to read:

8 2226. (a) Based on change-of-address information received
9 pursuant to Sections 2220 to 2225, inclusive, or change-of-address
10 information provided directly by the voter, the county elections
11 official shall take the following actions as appropriate:

12 (1) If the information indicates the voter has moved to a new
13 address within the same county, the county elections official shall
14 update and correct the voter's registration.

15 (2) If the information indicates the voter has moved to a new
16 address in another county, if the mailings have been returned as
17 undeliverable, or if the voter fails to confirm his or her address as
18 required by Section 2224, the county elections official may place
19 the voter's name on the inactive file of registered voters who do
20 not receive election materials and are not included in calculations
21 to determine the number of signatures required for qualification
22 of candidates and measures, precinct size, or other election
23 administration related processes.

24 (3) If the voter verifies in writing that he or she has moved to
25 a residence address in another county, the county elections official
26 shall cancel the voter registration in the county from which the
27 voter has moved.

28 (b) ~~(1)~~ The voter registration of any voter whose name has been
29 placed on the inactive file of registered voters for failure to respond
30 to a confirmation mailing as required by Section 2224 or an address
31 verification mailing required by Section 2225, and who does not
32 offer to vote or vote at any election between the date of the mailing
33 and four federal general elections after the date of that mailing,
34 may be canceled.

35 ~~(2) Notwithstanding paragraph (1), when the voter registration~~
36 ~~of a voter is canceled, the voter may vote at a subsequent election~~
37 ~~pursuant to Section 2227.~~

38 (c) Any voter whose name has been placed on the inactive file
39 of registered voters and offers to vote at any election between the
40 date of the verification notice, and four ~~federal general~~ *presidential*

1 elections after the date of notice, or who notifies the elections
2 official of a continued residency, shall be removed from the
3 inactive file and placed on the active voter file.

4 (d) All address corrections, cancellations, and inactive
5 transactions made to the voter registration file pursuant to this
6 section shall be reflected on the voter index as required by Section
7 2191.

8 ~~SEC. 5. Section 2227 is added to the Elections Code, to read:~~

9 ~~2227. (a) When the voter registration of a voter is canceled,~~
10 ~~the voter may vote in a subsequent election and have his or her~~
11 ~~ballot counted if he or she can show proof of residency within the~~
12 ~~county where the voter was previously registered. The voter shall~~
13 ~~not be required to reregister within the county and the name of a~~
14 ~~voter who votes at an election pursuant to this subdivision shall~~
15 ~~be placed on the active voter file. The elections official shall change~~
16 ~~the address on the voter's affidavit of registration accordingly.~~

17 ~~(b) When the voter registration of a voter is canceled and the~~
18 ~~voter shows proof of residency within a different county than the~~
19 ~~county where the voter was previously registered, the voter may~~
20 ~~cast a ballot only for statewide offices, statewide measures, a~~
21 ~~presidential candidate, or a candidate for the United States Senate~~
22 ~~or House of Representatives. The elections official shall~~
23 ~~immediately notify the elections official of the county to which~~
24 ~~the voter has moved. Upon receipt of the notice, the elections~~
25 ~~official of the county to which the voter has moved shall send to~~
26 ~~the voter a voter registration card, and shall instruct the voter that~~
27 ~~in order to record a change of address, the voter must reregister~~
28 ~~on a new affidavit of registration.~~

29 ~~(c) (1) When the voter shows proof of residency within the~~
30 ~~county where the voter was previously registered, the voter is~~
31 ~~entitled to vote in the precinct where he or she resides.~~

32 ~~(2) If the voter casts his or her ballot in a precinct other than~~
33 ~~the precinct where he or she resides, the elections official shall~~
34 ~~count the votes for the entire ballot if the ballot cast by the voter~~
35 ~~contains the same candidates and measures on which the voter~~
36 ~~would have been entitled to vote in his or her assigned precinct.~~

37 ~~(3) If the ballot cast by the voter contains candidates or measures~~
38 ~~on which the voter would not have been entitled to vote in his or~~
39 ~~her assigned precinct, the elections official shall count only the~~

1 votes for the candidates and measures on which the voter would
2 have been entitled to vote in his or her assigned precinct.

3 (d) For a partisan primary election, the voter shall be given a
4 ballot for the qualified political party that he or she was previously
5 registered. If the elections official cannot determine the qualified
6 political party that the voter was previously registered with, the
7 voter shall be treated as a voter not registered as intending to
8 affiliate with any one of the political parties participating in the
9 election and the voter may cast a ballot as described in subdivision
10 (b) of Section 13102.

11 SEC. 6. Section 2228 is added to the Elections Code, to read:

12 2228. (a) If the voter registration of a voter is canceled and
13 the voter desires to vote in a subsequent election pursuant to
14 Section 2227 but cannot show proof of residency, the voter may
15 cast a provisional ballot pursuant to Section 14310.

16 (b) For purposes of Section 14310, a voter whose voter
17 registration is canceled shall be deemed to be entitled to vote if he
18 or she was previously registered to vote within the county and the
19 voter currently resides within the county.

20 SEC. 7. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.