

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 7, 2010

**SENATE BILL**

**No. 1102**

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**Introduced by Senator Liu**

February 17, 2010

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An act to amend Section 4000 of, to add Sections 4101.5, 4102.2, 4102.4, and 4102.6 to, and to repeal and add Sections 4101 and 4102 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, as amended, Liu. Elections: vote by mail.

Existing law allows a local, special, or consolidated election to be conducted wholly by mail if specified conditions are satisfied, including that the governing body of the local agency authorizes the use of mailed ballots for the election. Existing law establishes certain procedures for the conduct of all-mail ballot elections.

This bill would, in addition, allow a special general or primary election called to fill a vacancy in an office of Representative in Congress, State Senate, or Member of the Assembly to be conducted wholly by mail if certain conditions are satisfied, including that the board of supervisors of each participating county authorizes the all-mail ballot election. The bill would revise and recast the procedures applicable to elections conducted wholly by mail, including procedures relating to notifying voters of information relating to the election, the distribution of election materials, and the establishment of locations for the return of ballots.

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

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

SECTION 1. Section 4000 of the Elections Code is amended to read:

4000. (a) A local, special, or consolidated election may be conducted wholly by mail if all of the following conditions are satisfied:

(1) The governing body of the local agency authorizes the use of mailed ballots for the election.

(2) The election is held on an established mailed ballot election date pursuant to Section 1500.

(3) The election is one of the following:

(A) An election in which no more than 1,000 registered voters are eligible to participate.

(B) In a city, county, or special district with 5,000 or fewer registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State, an election on a measure or measures restricted to one or both of the following:

(i) The imposition of special taxes.

(ii) Expenditure limitation overrides.

(C) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(D) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(E) An election of the Aliso Water Management Agency, or its affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(F) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

(G) An election of the San Lorenzo Valley Water District pursuant to Sections 13416 and 13417 of the Water Code.

(H) An election or assessment ballot proceeding required or authorized by Article XIII C or XIII D of the California Constitution. However, when an assessment ballot proceeding is conducted by mail pursuant to this section, the following rules apply:

1 (i) The proceeding shall be denominated an “assessment ballot  
2 proceeding” rather than an election.

3 (ii) Ballots shall be denominated “assessment ballots.”

4 (b) A special general or primary election called to fill a vacancy  
5 in an office of Representative in Congress, State Senate, or Member  
6 of the Assembly pursuant to Section 10703 may be conducted  
7 wholly by mail within a single county or within more than one  
8 county in accordance with paragraph (1) or (2).

9 (1) For a district that is located within a single county, the  
10 election may be conducted wholly by mail if all of the following  
11 conditions are satisfied:

12 (A) The board of supervisors of the county adopts a resolution  
13 at any time between the date the vacancy is declared and seven  
14 days after the election is called authorizing the conduct of the  
15 election wholly by mail. The county elections official shall notify  
16 the Secretary of State of the county’s intent to conduct the election  
17 wholly by mail pursuant to Chapter 2 (commencing with Section  
18 4100).

19 (B) The special general or primary election is not scheduled to  
20 be held on an established election date pursuant to Section 1000.

21 ~~(C) The county is not covered by the preclearance requirements~~  
22 ~~of Section 5 of the federal Voting Rights Act of 1965 (42 U.S.C.~~  
23 ~~Sec. 1973c).~~

24 (2) For a district that is located within more than one county,  
25 the election may be conducted wholly by mail if all of the following  
26 conditions are satisfied:

27 (A) The board of supervisors of each county in which the district  
28 is located adopts a resolution at any time between the date the  
29 vacancy is declared and seven days after the election is called  
30 authorizing the conduct of the election wholly by mail. The county  
31 elections official of each participating county shall notify the  
32 Secretary of State of the county’s intent to conduct the election  
33 wholly by mail pursuant to Chapter 2 (commencing with Section  
34 4100).

35 (B) The special general or primary election is not scheduled to  
36 be held on an established election date pursuant to Section 1000.

37 ~~(C) None of the counties participating in the all-mailed ballot~~  
38 ~~election is covered by the preclearance requirements of Section 5~~  
39 ~~of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1973c).~~

40 SEC. 2. Section 4101 of the Elections Code is repealed.

1 SEC. 3. Section 4101 is added to the Elections Code, to read:

2 4101. Notwithstanding Sections 13300 and 13303, the elections  
3 official shall mail a notice, no more than 40 and no less than 21  
4 days prior to the election, to voters who are registered at least 29  
5 days before the election. The notice shall do all of the following:

6 (a) Notify the voter that the election is being conducted by  
7 all-mailed ballot.

8 (b) Indicate the last date ballots will be mailed to voters who  
9 were registered at least 29 days before the election.

10 (c) Instruct the voter how to obtain a replacement ballot if the  
11 first ballot is not received at least 15 days before the election.

12 SEC. 4. Section 4101.5 is added to the Elections Code, to read:

13 4101.5. In addition to the materials required to be sent pursuant  
14 to Chapter 1 (commencing with Section 3000) of Division 3, the  
15 elections official shall mail to each qualified voter of the  
16 jurisdiction both of the following:

17 (a) A voter information pamphlet containing candidate  
18 statements filed pursuant to Section 13307.5 of this code or Section  
19 85601 of the Government Code, as applicable, and arguments,  
20 analyses, and full texts of measures, if any.

21 (b) A notice listing the locations established for the return of  
22 voted ballots, as required by Section 4102.2.

23 SEC. 5. Section 4102 of the Elections Code is repealed.

24 SEC. 6. Section 4102 is added to the Elections Code, to read:

25 4102. (a) The elections official may commence the mailing  
26 of official ballots to voters starting 29 days before the election.

27 (b) The mailing of official ballots to eligible voters registered  
28 by 29 days before the election shall be completed not less than 21  
29 days before the election.

30 (c) The mailing of official ballots to eligible voters registered  
31 by 15 days before the election shall be completed not less than 10  
32 days before the election.

33 SEC. 7. Section 4102.2 is added to the Elections Code, to read:

34 4102.2. Locations for the return of voted ballots shall be  
35 provided by the elections official conducting the election by mail  
36 as follows:

37 (a) One location shall be provided for each 25,000 registered  
38 voters, or portion thereof, in the jurisdiction after subtraction of  
39 permanent vote by mail voters, including military and overseas  
40 voters.

1 (b) Each location shall be open on election day from 7:00 a.m.  
2 until 8:00 p.m. and may be open other days and times at the  
3 discretion of the elections official.

4 (c) Each location shall be staffed by a minimum of two persons,  
5 who shall complete the declaration as provided in Section 12321.

6 (d) In selecting the locations, the elections official shall give  
7 preference and priority as follows:

8 (1) Facilities that are accessible to voters with disabilities.

9 (2) Schools, government buildings, halls, churches, community  
10 rooms, conference rooms, and multipurpose facilities.

11 (3) Facilities with a minimum of 20 spaces reserved for voters  
12 or, in lieu thereof, ample space to provide drive-through services.

13 (4) Facilities located near major thoroughfares.

14 SEC. 8. Section 4102.4 is added to the Elections Code, to read:

15 4102.4. (a) In addition to the notice provided for in subdivision  
16 (b) of Section 4101.5, the elections official shall notify the public  
17 of all of the following information concerning the mail ballot  
18 election:

19 (1) Information regarding obtaining a replacement ballot in the  
20 event a voter has spoiled his or her ballot.

21 (2) Information regarding returning vote by mail ballots,  
22 including the provisions of Section 3017.

23 (3) The locations established for the return of voted ballots.

24 (4) The dates and times that the locations will be open.

25 (5) A telephone number that voters may use to obtain  
26 information regarding the election, including all of the following  
27 information:

28 (A) How to obtain a replacement ballot in the event a voter has  
29 spoiled his or her ballot.

30 (B) How to obtain a provisional ballot in the event the voter has  
31 lost or destroyed, or has never received, a ballot.

32 (C) How a voter who is ill, has a disability, is confined to a  
33 medical facility or nursing home, or is otherwise unable to  
34 personally appear may obtain or return his or her ballot, including  
35 the provisions of Section 3021.

36 (b) The notice required pursuant to subdivision (a) shall be  
37 provided by all of the following means:

38 (1) A general news release issued not later than 14 days prior  
39 to the scheduled election.

1 (2) Publication not later than 14 days prior to the election in a  
2 newspaper of general circulation published within the jurisdiction.

3 (3) Publication on the Internet Web site of the elections official  
4 for at least 14 days prior to the election.

5 SEC. 9. Section 4102.6 is added to the Elections Code, to read:

6 4102.6. Any voter returning a voted ballot to a designated  
7 location shall sign a roster with his or her signature and printed  
8 name. If the voter has authorized a person to return his or her voted  
9 ballot on his or her behalf pursuant to Section 3017 or 3021, the  
10 person returning the voted ballot shall sign the roster with his or  
11 her signature, printed name, the name of the voter for whom he or  
12 she is returning the ballot, and his or her relationship to the voter.  
13 Voted ballots shall be returned to the location sealed in the  
14 identification envelope and signed by the voter, and shall be placed  
15 in a ballot box, which shall remain sealed until delivered to the  
16 elections official.