

AMENDED IN SENATE MARCH 14, 2011

**SENATE BILL**

**No. 109**

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**Introduced by Senator Gaines**

January 14, 2011

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An act to amend Section 4004 of the Elections Code, relating to vote by mail elections, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 109, as amended, Gaines. Elections: special: vote by mail.

Under existing law, a small city with a population of 100,000 or less, and an eligible entity, as defined, may conduct an election therein wholly by all-mail ballot, subject to certain conditions, including that the election is a special election to fill a vacancy in the legislative body of the small city or the governing board of the eligible entity, and that the election is not consolidated with any other election.

This bill would also authorize a small county with a population of 400,000 or less to conduct ~~an election therein~~ *a special election to fill a vacancy in a legislative body or governing body, or any special election called by the Governor*, wholly by all-mail ballot, subject to the same conditions currently imposed on small cities and other eligible entities.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

SECTION 1. Section 4004 of the Elections Code is amended to read:

4004. (a) (1) “Small city” means a city with a population of 100,000 or less, as determined by the annual city total population estimates by the Demographic Research Unit of the Department of Finance.

(2) “Small county” means a county with a population of 400,000 or less, as determined by the annual county total population estimates by the Demographic Research Unit of the Department of Finance.

(b) “Eligible entity” means a school district or a special district.

(c) Notwithstanding Sections 1500 and 4000, an election in a small city, small county, or an eligible entity may be conducted wholly as an all-mail ballot election, subject to the following conditions:

(1) The legislative body of the small city, small county, or the governing body of the eligible entity, by resolution, authorizes the use of mailed ballots for the election.

(2) The election is a special election to fill a vacancy in the legislative body or governing body.

(3) The election is not held on the same date as a statewide primary or general election.

(4) The election is not consolidated with any other election.

(5) The return of voted mail ballots is subject to Section 3017.

(d) *Notwithstanding Sections 1500 and 4000, a special election called by the Governor may be conducted wholly as an all-mail ballot election in a small county subject to the following conditions:*

*(1) The legislative body of the small county, by resolution, authorizes the use of mailed ballots for the special election.*

*(2) The special election is not held on the same day as a statewide primary or general election.*

*(3) The special election is not consolidated with any other election.*

*(4) The return of voted mail ballots is subject to Section 3017.*

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

1 It is necessary for this act to go into immediate effect in order  
2 to allow small counties to save money in the current fiscal year by  
3 conducting all-mail ballot elections for the many special elections  
4 set to occur in these small counties during the current fiscal year  
5 in light of the ~~ongoing dire financial straits facing those~~ *financial*  
6 *burdens that these elections place on the affected* counties.

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