

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY JUNE 30, 2009

SENATE BILL

No. 817

Introduced by ~~Committee on Elections, Reapportionment and Constitutional Amendments (Hancock (chair), Walters (vice chair), Liu, DeSaulnier, Cogdill)~~ Senator Hancock

March 2, 2009

An act to amend Sections 300, 3004, 3100, 3102, 3103, 3103.5, 3104, 3107, 3108, 3109, 3110, and 3112 of the Elections Code, relating to elections. An act to amend Section 14011.10 of, and to add Section 14011.11 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 817, as amended, ~~Committee on Elections, Reapportionment and Constitutional Amendments Hancock~~. Elections: ~~special vote by mail voter~~. Medi-Cal: *individuals in county juvenile detention facilities: Alameda County.*

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services.

Under existing law, children in juvenile facilities are ineligible to receive Medi-Cal benefits.

This bill would, subject to the receipt of federal financial participation, provide that Medi-Cal benefits shall be provided to individuals awaiting adjudication in Alameda County Juvenile Hall if an individual is eligible to receive Medi-Cal benefits at the time he or she is admitted to Alameda County Juvenile Hall, or the individual is subsequently determined to be eligible for Medi-Cal benefits, and Alameda County agrees to pay the state's share of Medi-Cal expenditures and the state's administrative

costs for the above-described benefits. This bill would provide that the individual would have his or her Medi-Cal benefits continued until the date of the individual's adjudication.

This bill would provide that the above-described provisions shall be implemented only if, to the extent that, and on the date that the department receives written confirmation from the federal Centers for Medicare and Medicaid Services that federal financial participation is available and the Director of Health Care Services executes a declaration stating that implementing the above-described provisions will not jeopardize federal funding, as specified. The bill would require the director to cease implementing the bill under prescribed circumstances.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Alameda.

Existing law authorizes a "vote by mail voter" to cast his or her ballot by mail. Existing law also authorizes members of the Armed Forces, their spouses and dependents; a United States citizen temporarily residing outside the country; and crew members of a United States merchant vessel to cast their votes as "special absentee voters."

This bill would change the term for these voters from "special absentee voters" to "special vote by mail voters."

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

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

- 1 SECTION 1. Section 14011.10 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 14011.10. (a) ~~Benefits provided~~ Except as provided in Section
- 4 14011.11, benefits provided under this chapter to an individual
- 5 under 21 years of age who is an inmate of a public institution shall
- 6 be suspended in accordance with Section 1396d(a)(28)(A) of Title
- 7 42 of the United States Code as provided in subdivision (c).
- 8 (b) County welfare departments shall be required to notify the
- 9 department within 10 days of receiving information that an
- 10 individual under 21 years of age on Medi-Cal in the county is or
- 11 will be an inmate of a public institution.
- 12 (c) If an individual under 21 years of age is a Medi-Cal
- 13 beneficiary on the date he or she becomes an inmate of a public
- 14 institution, his or her benefits under this chapter and under Chapter

1 8 (commencing with Section 14200) shall be suspended effective
2 the date he or she becomes an inmate of a public institution. The
3 suspension will end on the date he or she is no longer an inmate
4 of a public institution or one year from the date he or she becomes
5 an inmate of a public institution, whichever is sooner.

6 (d) Nothing in this section shall create a state-funded benefit or
7 program. Health care services under this chapter and Chapter 8
8 (commencing with Section 14200) shall not be available to inmates
9 of public institutions whose Medi-Cal benefits have been suspended
10 under this section.

11 (e) This section shall be implemented only if and to the extent
12 allowed by federal law. This section shall be implemented only to
13 the extent that any necessary federal approval of state plan
14 amendments or other federal approvals are obtained.

15 (f) If any part of this section is in conflict with or does not
16 comply with federal law, this entire section shall be inoperable.

17 (g) This section shall be implemented on January 1, 2010, or
18 the date when all necessary federal approvals are obtained,
19 whichever is later.

20 (h) By January 1, 2010, or the date when all necessary federal
21 approvals are obtained, whichever is later, the department, in
22 consultation with the Chief Probation Officers of California and
23 the County Welfare Directors Association, shall establish the
24 protocols and procedures necessary to implement this section,
25 including any needed changes to the protocols and procedures
26 previously established to implement Section 14029.5.

27 (i) Notwithstanding Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 the department shall implement this section by means of all-county
30 letters or similar instructions without taking regulatory action.
31 Thereafter, the department shall adopt regulations in accordance
32 with the requirements of Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

34 *SEC. 2. Section 14011.11 is added to the Welfare and*
35 *Institutions Code, to read:*

36 *14011.11. (a) To the extent that federal financial participation*
37 *is available, Medi-Cal benefits shall be provided to an individual*
38 *awaiting adjudication in Alameda County Juvenile Hall if both of*
39 *the following requirements are met:*

1 (1) *The individual is receiving Medi-Cal benefits at the time the*
2 *individual is admitted to Alameda County Juvenile Hall or the*
3 *individual is subsequently determined to be eligible for Medi-Cal*
4 *benefits.*

5 (2) *Alameda County agrees to pay the state's share of Medi-Cal*
6 *expenditures and the state's administrative costs for benefits under*
7 *this section.*

8 (b) *Benefits available pursuant to this section shall continue*
9 *until the date of the individual's adjudication.*

10 (c) *Notwithstanding Chapter 3.5 (commencing with Section*
11 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
12 *the department may implement and administer this section by*
13 *means of all-county letters or similar instructions without taking*
14 *regulatory action. Thereafter, the department shall adopt*
15 *regulations in accordance with the requirements of Chapter 3.5*
16 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
17 *2 of the Government Code.*

18 (d) *This section shall be implemented only if, and to the extent*
19 *that, both of the following occur:*

20 (1) *The department receives written confirmation from the*
21 *federal Centers for Medicare and Medicaid Services that federal*
22 *financial participation is available to implement this section*
23 *pursuant to Title XIX of the federal Social Security Act (42 U.S.C.*
24 *Sec. 1396 et seq.).*

25 (2) *The director executes a declaration that states that*
26 *implementation of this section will not jeopardize the state's ability*
27 *to receive federal financial participation or any increase in federal*
28 *medical assistance percentage (FMAP) available on or after*
29 *October 1, 2008, or additional federal funds that the director, in*
30 *consultation with the Department of Finance, has determined*
31 *would be advantageous to the state.*

32 (e) (1) *If at any time the director determines that the statement*
33 *in the declaration executed pursuant to paragraph (2) of*
34 *subdivision (d) may no longer be accurate, the director shall give*
35 *notice to the Joint Legislative Budget Committee and to the*
36 *Department of Finance. Thereafter, if the director determines in*
37 *consultation with the Department of Finance that it is necessary*
38 *to cease implementation of this section in order to receive federal*
39 *financial participation or any increase in FMAP available on or*
40 *after October 1, 2008, or additional federal funds that the director,*

1 *in consultation with the Department of Finance, has determined*
2 *would be advantageous to the state, the director shall cease*
3 *implementation of this section.*

4 (2) *Notwithstanding Chapter 3.5 (commencing with Section*
5 *11340) of Part 1 of Division 3 of Title 2 of the Government Code,*
6 *the department may implement paragraph (1) by means of*
7 *all-county letters or similar instruction without taking regulatory*
8 *action.*

9 (f) *If this section is implemented pursuant to subdivision (d), it*
10 *shall be implemented commencing on the date that both conditions*
11 *described in subdivision (d) have been satisfied.*

12 SEC. 3. *The Legislature finds and declares that a special law*
13 *is necessary and that a general law cannot be made applicable*
14 *within the meaning of Section 16 of Article IV of the California*
15 *Constitution because of the unique circumstances of the County*
16 *of Alameda. In that respect, historically there have been difficulties*
17 *in integrating services, including health care services, for youths*
18 *involved with the juvenile justice system in Alameda County.*

19 SECTION 1. ~~Section 300 of the Elections Code is amended to~~
20 ~~read:~~

21 300. (a) ~~“Vote by mail voter” means any voter casting a ballot~~
22 ~~in any way other than at the polling place.~~

23 (b) ~~“Special vote by mail voter” means an elector who is any~~
24 ~~of the following:~~

25 (1) ~~A member of the Armed Forces of the United States or any~~
26 ~~auxiliary branch thereof.~~

27 (2) ~~A citizen of the United States temporarily living outside of~~
28 ~~the territorial limits of the United States or the District of Columbia.~~

29 (3) ~~Serving on a merchant vessel documented under the laws~~
30 ~~of the United States.~~

31 (4) ~~A spouse or dependent of a member of the Armed Forces~~
32 ~~or any auxiliary branch thereof.~~

33 SEC. 2. ~~Section 3004 of the Elections Code is amended to read:~~

34 3004. ~~The county elections official shall place a notice in any~~
35 ~~office within the county where applications are taken for federal~~
36 ~~passports or where military enlistments are received to inform~~
37 ~~potential special vote by mail voters of their right to a vote by mail~~
38 ~~voter’s ballot and where registration materials and application~~
39 ~~forms can be obtained.~~

40 SEC. 3. ~~Section 3100 of the Elections Code is amended to read:~~

1 3100. ~~When a voter who qualifies as a special vote by mail~~
2 ~~voter pursuant to subdivision (b) of Section 300 applies for a vote~~
3 ~~by mail ballot, the application shall be deemed to be an affidavit~~
4 ~~of registration and an application for permanent vote by mail status,~~
5 ~~pursuant to Chapter 3 (commencing with Section 3200). The~~
6 ~~application must be completed by the voter and must contain the~~
7 ~~voter's name, residence address for voting purposes, the address~~
8 ~~to which the ballot is to be sent, the voter's political party for a~~
9 ~~primary election, and the voter's signature.~~

10 ~~If the applicant is not a resident of the county to which he or she~~
11 ~~has applied, the elections official receiving the application shall~~
12 ~~forward it immediately to the proper county.~~

13 ~~SEC. 4. Section 3102 of the Elections Code, as amended by~~
14 ~~Section 1 of Chapter 252 of the Statutes of 2008, is amended to~~
15 ~~read:~~

16 ~~3102. (a) Applications for the ballots of special vote by mail~~
17 ~~voters shall be received and, except as provided in Section 3103.5,~~
18 ~~the ballots shall be received and canvassed, at the same time and~~
19 ~~under the same procedure as vote by mail ballots, insofar as that~~
20 ~~procedure is not inconsistent with this chapter.~~

21 ~~(b) This section shall remain in effect only until January 1, 2011,~~
22 ~~and as of that date is repealed, unless a later enacted statute, that~~
23 ~~is enacted before January 1, 2011, deletes or extends that date.~~

24 ~~SEC. 5. Section 3102 of the Elections Code, as amended by~~
25 ~~Section 2 of Chapter 252 of the Statutes of 2008, is amended to~~
26 ~~read:~~

27 ~~3102. (a) Applications for the ballots of special vote by mail~~
28 ~~voters shall be received, and the ballots shall be received and~~
29 ~~canvassed at the same time and under the same procedure as vote~~
30 ~~by mail ballots, insofar as that procedure is not inconsistent with~~
31 ~~this chapter.~~

32 ~~(b) This section shall become operative January 1, 2011.~~

33 ~~SEC. 6. Section 3103 of the Elections Code, as amended by~~
34 ~~Section 3 of Chapter 252 of the Statutes of 2008, is amended to~~
35 ~~read:~~

36 ~~3103. (a) An application made pursuant to this chapter that is~~
37 ~~received by the elections official prior to the 60th day before the~~
38 ~~election shall be kept and processed on or after the 60th day before~~
39 ~~the election.~~

1 ~~(b) The elections official shall immediately send the voter a~~
2 ~~ballot in a form prescribed and provided by the Secretary of State.~~
3 ~~The elections official shall send with the ballot a list of all~~
4 ~~candidates who have qualified for the ballot by the 60th day before~~
5 ~~the election and a list of all measures that are to be submitted to~~
6 ~~the voters and on which the voter is qualified to vote. The voter~~
7 ~~shall be entitled to write in the name of any specific candidate~~
8 ~~seeking nomination or election to any office listed on the ballot.~~

9 ~~(c) Notwithstanding Section 15341 or any other provision of~~
10 ~~law, any name written upon a ballot for a particular office pursuant~~
11 ~~to subdivision (b) shall be counted for the office or nomination, if~~
12 ~~the candidate whose name has been written on the ballot has, as~~
13 ~~of the date of the election, qualified to have his or her name placed~~
14 ~~on the ballot for the office, or has qualified as a write-in candidate~~
15 ~~for the office.~~

16 ~~(d) Except as provided in Section 3103.5, the elections official~~
17 ~~shall receive and canvass special vote by mail voter ballots~~
18 ~~described in this section under the same procedure as vote by mail~~
19 ~~ballots, insofar as that procedure is not inconsistent with this~~
20 ~~section.~~

21 ~~(e) If a voter executes a special vote by mail ballot pursuant to~~
22 ~~this section and an application for a vote by mail ballot pursuant~~
23 ~~to Section 3101, the elections official shall cancel the voter's~~
24 ~~permanent vote by mail status, and process the application in~~
25 ~~accordance with Chapter 1 (commencing with Section 3000).~~

26 ~~(f) Notwithstanding any other provision of law, a special vote~~
27 ~~by mail voter who qualifies pursuant to this section may, by~~
28 ~~facsimile transmission, register to vote and apply for a special vote~~
29 ~~by mail ballot or a vote by mail ballot. Upon request, the elections~~
30 ~~official may send to the qualified special vote by mail voter either~~
31 ~~by mail, facsimile, or electronic transmission the special vote by~~
32 ~~mail ballot or, if available, a vote by mail ballot pursuant to Chapter~~
33 ~~1 (commencing with Section 3000).~~

34 ~~(g) This section shall remain in effect only until January 1, 2011,~~
35 ~~and as of that date is repealed, unless a later enacted statute, that~~
36 ~~is enacted before January 1, 2011, deletes or extends that date.~~

37 ~~SEC. 7. Section 3103 of the Elections Code, as amended by~~
38 ~~Section 4 of Chapter 252 of the Statutes of 2008, is amended to~~
39 ~~read:~~

1 3103. ~~(a) An application made pursuant to this chapter that is~~
2 ~~received by the elections official prior to the 60th day before the~~
3 ~~election shall be kept and processed on or after the 60th day before~~
4 ~~the election.~~

5 ~~(b) The elections official shall immediately send the voter a~~
6 ~~ballot in a form prescribed and provided by the Secretary of State.~~
7 ~~The elections official shall send with the ballot a list of all~~
8 ~~candidates who have qualified for the ballot by the 60th day before~~
9 ~~the election and a list of all measures that are to be submitted to~~
10 ~~the voters and on which the voter is qualified to vote. The voter~~
11 ~~shall be entitled to write in the name of any specific candidate~~
12 ~~seeking nomination or election to any office listed on the ballot.~~

13 ~~(c) Notwithstanding Section 15341 or any other provision of~~
14 ~~law, any name written upon a ballot for a particular office pursuant~~
15 ~~to subdivision (b) shall be counted for the office or nomination, if~~
16 ~~the candidate whose name has been written on the ballot has, as~~
17 ~~of the date of the election, qualified to have his or her name placed~~
18 ~~on the ballot for the office, or has qualified as a write-in candidate~~
19 ~~for the office.~~

20 ~~(d) The elections official shall receive and canvass special vote~~
21 ~~by mail voter ballots described in this section under the same~~
22 ~~procedure as vote by mail ballots, insofar as that procedure is not~~
23 ~~inconsistent with this section.~~

24 ~~(e) If a voter executes a special vote by mail ballot pursuant to~~
25 ~~this section and an application for a vote by mail ballot pursuant~~
26 ~~to Section 3101, the elections official shall reject the voted ballot~~
27 ~~previously cast, cancel the voter's permanent vote by mail status,~~
28 ~~and process the application in accordance with Chapter 1~~
29 ~~(commencing with Section 3000).~~

30 ~~(f) Notwithstanding any other provision of law, a special vote~~
31 ~~by mail voter who qualifies pursuant to this section may, by~~
32 ~~facsimile transmission, register to vote and apply for a special vote~~
33 ~~by mail ballot or a vote by mail ballot. Upon request, the elections~~
34 ~~official may send to the qualified special vote by mail voter either~~
35 ~~by mail, facsimile, or electronic transmission the special vote by~~
36 ~~mail ballot or, if available, a vote by mail ballot pursuant to Chapter~~
37 ~~1 (commencing with Section 3000).~~

38 ~~(g) This section shall become operative January 1, 2011.~~

39 ~~SEC. 8. Section 3103.5 of the Elections Code is amended to~~
40 ~~read:~~

1 3103.5. (a) (1) A special vote by mail voter who is temporarily
 2 living outside of the territorial limits of the United States or the
 3 District of Columbia, or is called for military service within the
 4 United States on or after the final date to make application for a
 5 vote by mail voter ballot, may return his or her ballot by facsimile
 6 transmission. To be counted, the ballot returned by facsimile
 7 transmission must be received by the voter's elections official no
 8 later than the closing of the polls on election day and must be
 9 accompanied by an identification envelope containing all of the
 10 information required by Section 3011 and an oath of voter
 11 declaration in substantially the following form:

OATH OF VOTER

12
 13
 14 I, _____, acknowledge that by returning my voted
 15 ballot by facsimile transmission I have waived my right to have my ballot
 16 kept secret. Nevertheless, I understand that, as with any vote by mail
 17 voter, my signature, whether on this oath of voter form or my identification
 18 envelope, will be permanently separated from my voted ballot to maintain
 19 its secrecy at the outset of the tabulation process and thereafter.

20
 21 My residence address is _____.
 22 _____ (Street Address) (City) (ZIP Code)

23
 24 My current mailing address is _____.
 25 _____ (Street Address) (City) (ZIP Code)

26 -
 27 My e-mail address is _____. My facsimile transmission
 28 number is _____.

29 -
 30 I am a resident of _____ County, State of California, and I have not
 31 applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction
 32 for the same election.

33 -
 34 I declare under penalty of perjury under the laws of the State of California
 35 that the foregoing is true and correct.

36 -
 37 Dated this _____ day of _____, 20____.

38
 39 (Signature) _____

1 _____ voter (power of attorney cannot be accepted)

2 -

3 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE
4 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND
5 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED
6 BY FACSIMILE TRANSMISSION.

7

8 (2) Notwithstanding the voter's waiver of the right to a secret
9 ballot, each elections official shall adopt appropriate procedures
10 to protect the secrecy of ballots returned by facsimile transmission.

11 (3) Upon receipt of a ballot returned by facsimile transmission,
12 the elections official shall determine the voter's eligibility to vote
13 by comparing the signature on the return information with the
14 signature on the voter's affidavit of registration. The ballot shall
15 be duplicated and all materials preserved according to procedures
16 set forth in this code.

17 (4) Notwithstanding paragraph (1), a special vote by mail voter
18 who is permitted to return his or her ballot by facsimile
19 transmission is, nonetheless, encouraged to return his or her ballot
20 by mail or in person if possible. A special vote by mail voter should
21 return a ballot by facsimile transmission only if doing so is
22 necessary for the ballot to be received before the close of polls on
23 election day.

24 (b) The Secretary of State shall make a recommendation to the
25 Legislature, no later than December 31, 2008, on the benefits and
26 problems, if any, derived from permitting qualified special vote
27 by mail voters to return their ballots by facsimile transmission,
28 and shall include in the recommendation the number of ballots
29 returned by facsimile transmission pursuant to this section.

30 (e) This section shall remain in effect only until January 1, 2011,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2011, deletes or extends that date.

33 SEC. 9. Section 3104 of the Elections Code is amended to read:
34 3104. A vote by mail ballot application by a qualified special
35 vote by mail voter shall also be deemed an affidavit of voter
36 registration and an application for permanent vote by mail status.

37 SEC. 10. Section 3107 of the Elections Code is amended to
38 read:

39 3107. If a special vote by mail voter is released from service
40 after the closing date of registration for an election and has returned

1 to the county of his or her residence and is not a registered voter,
2 he or she may apply in person to the elections official for
3 permission to register. If the elector furnishes documentary proof
4 of release from service after the closing date of registration for the
5 election, the elections official shall allow him or her to be registered
6 and to vote in the election. On or before the day of election the
7 elections official shall deliver to the precinct board a list of special
8 vote by mail voters registered under this section.

9 SEC. 11. Section 3108 of the Elections Code is amended to
10 read:

11 3108. If a special vote by mail voter to whom a vote by mail
12 ballot has been mailed and which ballot has not been voted by him
13 or her returns to the county in which he or she is registered on or
14 before election day, he or she may apply for a second vote by mail
15 ballot pursuant to Section 3014. The elections official shall require
16 him or her to sign an authorization to cancel the vote by mail ballot
17 previously issued when it is returned to the county elections
18 official. The elections official shall then issue another vote by mail
19 ballot to the voter, or the elections official shall certify to the
20 precinct board that the voter is eligible to vote in the precinct
21 polling place of his or her residence.

22 SEC. 12. Section 3109 of the Elections Code is amended to
23 read:

24 3109. If a special vote by mail voter returns to the county of
25 his or her residence after the final day for making application for
26 a vote by mail ballot, he or she may appear before the elections
27 official and make application for registration, vote by mail ballot,
28 or both. The elections official shall register the voter, if he or she
29 is not registered, and deliver to him or her a vote by mail ballot
30 that may be voted in the elections official's office or voted outside
31 the elections official's office on or before the close of the polls on
32 the day of election and returned as are other vote by mail ballots.

33 SEC. 13. Section 3110 of the Elections Code is amended to
34 read:

35 3110. If a special vote by mail voter is unable to appear at his
36 or her polling place because of being recalled to service after the
37 final day for making application for a vote by mail ballot, but
38 before 5 p.m. on the day before the day of election, he or she may
39 appear before the elections official in the county in which the
40 special vote by mail voter is registered or, if within the state, in

1 the county in which he or she is recalled to service and make
2 application for a vote by mail ballot, which may be submitted by
3 facsimile, or by e-mail or online transmission if the elections
4 official makes the transmission option available. The elections
5 official shall deliver to him or her a vote by mail ballot that may
6 be voted in the elections official's office or voted outside the
7 elections official's office on or before the close of the polls on the
8 day of election and returned as are other vote by mail ballots. To
9 be counted, the ballot must be returned to the elections official's
10 office in person, by facsimile transmission, or by an authorized
11 person on or before the close of the polls on the day of the election.
12 If the special vote by mail voter appears in the county in which he
13 or she is recalled to service, rather than the county to which he or
14 she is registered, the elections official shall coordinate with the
15 elections official in the county in which the special vote by mail
16 voter is registered to provide the vote by mail ballot that contains
17 the appropriate measures and races for the precinct in which the
18 special vote by mail voter is registered.

19 SEC. 14. Section 3112 of the Elections Code is amended to
20 read:

21 3112. If by any act of Congress that is now or may become
22 effective during the effective period of this section, provision is
23 made for voting by special vote by mail voter, that act shall control
24 and be superior to any conflicting provisions of this code, and all
25 state, county, municipal and district officers who are charged with
26 the performance of duties with reference to the election laws of
27 this state shall perform the duties and discharge the obligations
28 placed upon them by that act of Congress. It is the purpose and
29 intent of this section that full effect shall be given to ballots cast
30 by special vote by mail voters under federal statutes in order that
31 no person shall be deprived of his or her vote by virtue of having
32 cast his or her ballot under any federal statute rather than under
33 the laws of this state.