

ASSEMBLY BILL

No. 472

Introduced by Assembly Member Patterson

February 19, 2013

An act to amend Section 3106 of, and to repeal and add Section 3117 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 472, as introduced, Patterson. Vote by mail ballots: military or overseas voters.

Existing law requires that a vote by mail ballot be received by the issuing elections official or the precinct board no later than the close of polls on election day.

This bill would make an exception for military or overseas voters, as defined, and would instead require that their vote by mail ballots be postmarked on or before election day and received by their elections officials not later than 10 days after election day.

Existing law permits a military or overseas voter to return his or her vote by mail ballot by facsimile transmission and requires the ballot returned by facsimile transmission to be received no later than the closing of the polls on election day. Existing law provides that a military or overseas voter should return his or her ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the closing of the polls on election day.

This bill would instead provide that a military or overseas voter should return his or her ballot by facsimile transmission only if doing so is necessary for the ballot to be timely cast.

Because the bill would impose additional duties on 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.

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 3106 of the Elections Code is amended
2 to read:
3 3106. (a) A military or overseas voter who is living outside
4 of the territorial limits of the United States or the District of
5 Columbia, or is called for military service within the United States
6 on or after the final date to make application for a vote by mail
7 ballot, may return his or her ballot by facsimile transmission. To
8 be counted, the ballot returned by facsimile transmission shall be
9 received by the voter’s elections official no later than the closing
10 of the polls on election day and shall be accompanied by an
11 identification envelope containing all of the information required
12 by Section 3011 and an oath of voter declaration in substantially
13 the following form:

OATH OF VOTER

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

22
23 My residence address is _____.
24 (Street Address) (City) (ZIP Code)

25
26 My current mailing address is _____.
27 (Street Address) (City) (ZIP Code)

1
2 My email address is _____. My facsimile transmission
3 number is _____.

4
5 I am a resident of _____ County, State of California, or am qualified
6 as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of
7 the Elections Code and I have not applied, nor intend to apply, for a vote by
8 mail ballot from any other jurisdiction for the same election.

9
10 I declare under penalty of perjury under the laws of the State of California
11 that the foregoing is true and correct.

12
13 Dated this _____ day of _____, 20_____.

14
15 (Signature) _____
16 voter (power of attorney cannot be accepted)

17
18 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE
19 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND
20 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED
21 BY FACSIMILE TRANSMISSION.

22
23 (b) Notwithstanding the voter’s waiver of the right to a secret
24 ballot, each elections official shall adopt appropriate procedures
25 to protect the secrecy of ballots returned by facsimile transmission.

26 (c) Upon receipt of a ballot returned by facsimile transmission,
27 the elections official shall determine the voter’s eligibility to vote
28 by comparing the signature on the return information with the
29 signature on the voter’s affidavit of registration. The ballot shall
30 be duplicated and all materials preserved according to procedures
31 set forth in this code.

32 (d) Notwithstanding subdivision (a), a military or overseas voter
33 who is permitted to return his or her ballot by facsimile
34 transmission is, nonetheless, encouraged to return his or her ballot
35 by mail or in person if possible. A military or overseas voter should
36 return a ballot by facsimile transmission only if doing so is
37 necessary for the ballot to be received before the close of polls on
38 election day *timely cast*.

39 SEC. 2. Section 3117 of the Elections Code is repealed.

1 ~~3117. A valid ballot cast shall be counted if it is received by~~
2 ~~the elections official by the time the polls close on the day of the~~
3 ~~election.~~

4 SEC. 3. Section 3117 is added to the Elections Code, to read:

5 3117. Notwithstanding Section 3020 or 4103, or any other
6 provision of law, a vote by mail ballot of a military or overseas
7 voter is timely cast and, if valid, shall be counted if the ballot is
8 postmarked on or before election day and received by the voter's
9 elections official not later than 10 days after election day.

10 SEC. 4. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.