

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1301**

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**Introduced by Assembly Member Jones-Sawyer**

February 27, 2015

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An act to add Chapter 5 (commencing with Section 400) to Division 0.5 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1301, as amended, Jones-Sawyer. Voting rights: preclearance.

Existing law, the federal Voting Rights Act of 1965, provides that a change in voting procedures may not take effect in a state or political subdivision that is covered by the preclearance requirements of the federal act until the change is approved by a specified federal authority. A state or political subdivision is covered by the preclearance requirements of the federal act if it maintained a specified test or device as a prerequisite to voting, and had low voter registration or turnout, in the 1960s and early 1970s. The federal act allows a state or political subdivision covered by the act to obtain an exemption from the preclearance requirements if it satisfies specified criteria. The United States Supreme Court has held that the coverage formula of the federal act is unconstitutional and may not be used as a basis for requiring a jurisdiction to subject a proposed change in voting procedures to federal preclearance. ~~Prior to~~ *Before* that holding, the Counties of Kings, Monterey, and Yuba were covered jurisdictions subject to the federal preclearance requirements.

This bill would establish a state preclearance system. Under this system, if a *covered* political subdivision, *as defined*, enacts or seeks to administer a voting-related law, regulation, or policy, as specified,

that is different from that in force or effect on the date this act is enacted, the governing body of the *covered* political subdivision would be required to submit the law, regulation, or policy to the Secretary of State for approval. The bill would require the Secretary of State to approve the law, regulation, or policy only if specified conditions are met. The bill would provide that the law, regulation, or policy shall not take effect or be administered in the *covered* political subdivision until the law, regulation, or policy is approved by the Secretary of State, except as specified. The bill would allow the governing body of the *covered* political subdivision to seek review of the Secretary of State’s decision by means of an action filed in the Superior Court of Sacramento.

By requiring local governments to seek approval of the Secretary of State for changes to voting procedures, this 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. Chapter 5 (commencing with Section 400) is  
2 added to Division 0.5 of the Elections Code, to read:

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4  
5

CHAPTER 5. STATE PRECLEARANCE

6 400. For purposes of this chapter, the following terms have the  
7 following meanings:

- 8 (a) “Citizen” means a citizen of the United States.
- 9 (b) “Citizen voting-age population” means the population of  
10 citizens who are 18 years of age or older within a political  
11 subdivision, as calculated by the United States Census Bureau in  
12 the most recent federal decennial census.
- 13 (c) “*Covered political subdivision*” means a political  
14 subdivision with two or more racial or ethnic groups that each

1 *represent at least 20 percent of the citizen voting-age population*  
2 *in the political subdivision.*

3 ~~(e)~~

4 (d) “Electoral jurisdiction” means a geographic area within  
5 which reside the voters who are qualified to vote for an elective  
6 office.

7 ~~(d)~~

8 (e) “Multilingual voting materials” means registration or voting  
9 notices, forms, instructions, assistance, or other materials or  
10 information relating to the electoral process, including ballots,  
11 provided in the language of one or more language minority groups.

12 ~~(e)~~

13 (f) “Political subdivision” means a geographic area of  
14 representation created for the provision of government services,  
15 including, but not limited to, a city, a school district, a community  
16 college district, or other district organized pursuant to state law.

17 ~~(f)~~

18 (g) “Protected class” means a class of voters who are members  
19 of a race, color, or language minority group, as this class is  
20 referenced and defined in the federal Voting Rights Act of 1965  
21 (52 U.S.C. Sec. 10101 et seq.).

22 ~~(g)~~

23 (h) “Voting locations” means places for casting a ballot.

24 401. To ensure that the right of citizens who reside in California  
25 to vote is not denied or abridged on account of race, color, or  
26 language minority status through the enforcement of a  
27 voting-related law, regulation, or policy that is enacted or  
28 administered after the enactment date of this chapter, the following  
29 voting-related laws, regulations, and policies shall be subject to  
30 this chapter:

31 (a) A change to an at-large method of election that adds offices  
32 elected at-large or converts offices elected by single-member  
33 districts to one or more at-large or multimember districts.

34 (b) A change to the boundaries of an electoral jurisdiction, or  
35 a series of changes within a year to the boundaries of an electoral  
36 jurisdiction, that reduces the proportion of the citizen voting-age  
37 population that are members of a single protected class by 5 or  
38 more percent.

39 (c) A change through redistricting that alters the boundaries of  
40 districts within an electoral jurisdiction in which a single protected

1 class has experienced a population increase of at least 25,000  
2 residents or at least 20 percent of the citizen voting-age population  
3 of the protected class over the preceding decade, as determined  
4 by the five-year estimates of the United States Census American  
5 Community Survey.

6 (d) A change to voting locations that reduces, consolidates, or  
7 relocates one or more voting locations, including an early, absentee,  
8 or election day voting location, and results in a net loss, on a per  
9 voter basis, of voting locations in the 20 percent of the total number  
10 of census tracts in a *covered* political subdivision with the highest  
11 proportion of voters from a single protected class that represents  
12 at least 20 percent of the citizen voting-age population in the  
13 *covered* political subdivision, provided that the net loss is greater  
14 than the net loss resulting from the changes in the 20 percent of  
15 the total number of census tracts in a *covered* political subdivision  
16 with the highest proportion of voters of any other racial or ethnic  
17 group that represents at least 20 percent of the citizen voting-age  
18 population in the *covered* political subdivision.

19 (e) A change to multilingual voting materials that reduces the  
20 voting materials available in languages other than English, or that  
21 alters the manner in which the materials are provided or distributed,  
22 if no similar reduction or alteration occurred in materials provided  
23 in English.

24 402. (a) If a *covered* political subdivision enacts or seeks to  
25 administer a voting-related law, regulation, or policy described in  
26 Section 401 that is different from that in force or effect on the date  
27 this chapter is enacted, the governing body of the *covered* political  
28 subdivision shall submit the law, regulation, or policy to the  
29 Secretary of State for approval. The law, regulation, or policy shall  
30 not take effect or be administered in the *covered* political  
31 subdivision until the law, regulation, or policy is approved by the  
32 Secretary of State.

33 (b) The Secretary of State shall provide a written decision to  
34 the governing body of the *covered* political subdivision within 60  
35 days of a request to enact or administer a voting-related law,  
36 regulation, or policy described in Section 401. If the Secretary of  
37 State fails to provide a written decision within 60 days, the  
38 governing body of the *covered* political subdivision may implement  
39 the law, regulation, or policy. The governing body of the *covered*  
40 political subdivision may make a written request for an expedited

1 review of a law, regulation, or policy if the *covered* political  
2 subdivision has a demonstrated need to implement the proposed  
3 change before the end of the 60-day review period. The written  
4 request shall describe the basis for the request in light of conditions  
5 in the *covered* political subdivision and shall specify the date by  
6 which a decision is needed. The Secretary of State shall attempt  
7 to accommodate a reasonable request.

8 (c) The governing body of the *covered* political subdivision  
9 shall have the burden of establishing, by objective and compelling  
10 evidence, that the law, regulation, or policy satisfies both of the  
11 following:

12 (1) Is not likely to result in a discriminatory effect on the  
13 participation of voters from a protected class that constitutes at  
14 least 20 percent of the *covered* political subdivision's citizen  
15 voting-age population.

16 (2) Is not motivated in whole or substantially in part by an intent  
17 to reduce the participation of voters from a protected class.

18 (d) If the Secretary of State denies a request to enact or  
19 administer a law, regulation, or policy, the governing body of the  
20 *covered* political subdivision may seek review of the decision by  
21 means of an action filed in superior court.

22 (e) The Secretary of State may file suit to enjoin the governing  
23 body of a *covered* political subdivision from implementing a law,  
24 regulation, or policy in violation of this section.

25 (f) Venue for an action filed pursuant to subdivision (d) or (e)  
26 shall lie exclusively in the Superior Court for the County of  
27 Sacramento.

28 (g) Notwithstanding any other law, a *covered* political  
29 subdivision may enact or administer a voting-related law,  
30 regulation, or policy described in Section 401 that is different from  
31 that in force or effect on the date this chapter is enacted if doing  
32 so is necessary because of an unexpected circumstance that  
33 occurred during the 30 days immediately preceding an election,  
34 in which case the *covered* political subdivision may enact or  
35 administer the law, regulation, or policy only for purposes of that  
36 election. After the election, the *covered* political subdivision shall  
37 immediately submit the law, regulation, or policy to the Secretary  
38 of State for approval pursuant to this section.

39 ~~403. A political subdivision with two or more racial or ethnic~~  
40 ~~groups that each represent at least 20 percent of the citizen~~

1 ~~voting-age population in the political subdivision shall not~~  
2 ~~implement a previously enacted or adopted voting-related law,~~  
3 ~~regulation, or policy described in Section 401 that has not yet been~~  
4 ~~implemented, unless the law, regulation, or policy is approved~~  
5 ~~pursuant to Section 402.~~

6 ~~404.~~

7 403. (a) The Attorney General, or a registered voter who  
8 resides in a *covered* political subdivision where the change to a  
9 voting-related law, regulation, or policy occurred, may file an  
10 action in superior court to compel the *covered* political subdivision  
11 to satisfy the obligations set forth in this chapter.

12 (b) In an action brought pursuant to this section, a court shall  
13 provide as a remedy that the voting-related law, regulation, or  
14 policy be enjoined unless the court determines that the law,  
15 regulation, or policy is not subject to this chapter or has been  
16 approved by the procedures established in Section 402.

17 ~~405.~~

18 404. For purposes of this chapter, any data provided by the  
19 United States Census Bureau, whether based on enumeration or  
20 statistical sampling, shall not be subject to challenge or review by  
21 any court.

22 SEC. 2. If the Commission on State Mandates determines that  
23 this act contains costs mandated by the state, reimbursement to  
24 local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.