

AMENDED IN ASSEMBLY MAY 12, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1301

Introduced by Assembly Member ~~Members~~ Jones-Sawyer and Alejo

February 27, 2015

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. 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:

3

4

CHAPTER 5. STATE PRECLEARANCE

5

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

1 subdivision, as calculated by the United States Census Bureau in
2 the most recent federal decennial census.

3 (c) “Covered political subdivision” means a political subdivision
4 with two or more racial or ethnic groups that each represent at
5 least 20 percent of the citizen voting-age population in the political
6 subdivision.

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

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

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

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

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

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

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

38 (c) A change through redistricting that alters the boundaries of
39 districts within an electoral jurisdiction in which a single protected
40 class has experienced a population increase of at least 25,000

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

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

18 (e)

19 (d) 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) The Attorney General, or a registered voter who
40 resides in a covered political subdivision where the change to a

1 voting-related law, regulation, or policy occurred, may file an
2 action in superior court to compel the covered political subdivision
3 to satisfy the obligations set forth in this chapter.

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

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

13 SEC. 2. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.