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SB-72 Conditional voter registration: provisional ballots. (2019-2020)

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Senate Bill No. 72

CHAPTER 565

An act to amend Section 2170 of the Elections Code, relating to elections.

[Approved by Governor October 08, 2019. Filed with Secretary of State October 08, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 72, Umberg. Conditional voter registration: provisional ballots.

Existing law authorizes an elector who is otherwise qualified to register to vote to complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day, as prescribed. A county elections official is required to offer conditional voter registration and provisional voting at all permanent offices of the county elections official in the county in accordance with specified procedures. Existing law also permits the county elections official to offer conditional voter registration and provisional voting at satellite offices of the county elections office.

This bill would specifically require, rather than permit, the county elections official to offer conditional voter registration and provisional voting at all satellite offices of the county elections official and all polling places in the county. If the elections official is able to determine a conditionally registered voter's precinct, and the ballot for that precinct is available, the bill would require the elections official to provide the voter with a ballot for the voter's precinct. If the elections official is unable to determine the conditionally registered voter's precinct, or a ballot for the precinct is unavailable, the bill would require the elections official to provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted.

By requiring county elections officials to offer conditional voter registration and provisional voting at all satellite offices and all polling places, and by imposing additional duties on elections officials with respect to provisional ballots, this bill would create 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 the statutory provisions noted above.

This bill would incorporate additional changes to Section 2170 of the Elections Code proposed by AB 693 to be operative only if this bill and AB 693 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2170 of the Elections Code is amended to read:

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and provisional voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and provisional voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding provisional ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding provisional ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding provisional ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide the voter a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007.

SEC. 1.5 Section 2170 of the Elections Code is amended to read:

2170. (a) "Conditional voter registration" means a properly executed affidavit of registration that is delivered by the registrant to the county elections official during the 14 days immediately preceding an election or on election day and which may be deemed effective pursuant to this article after the elections official processes the affidavit, determines the registrant's eligibility to register, and validates the registrant's information, as specified in subdivision (c).

(b) In addition to other methods of voter registration provided by this code, an elector who is otherwise qualified to register to vote under this code and Section 2 of Article II of the California Constitution may complete a conditional voter registration and cast a provisional ballot, or nonprovisional ballot under subdivision (f), during the 14 days immediately preceding an election or on election day pursuant to this article.

(c) (1) A conditional voter registration shall be deemed effective if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the information provided by the registrant on the registration affidavit matches information contained in a database maintained by the Department of Motor Vehicles or the federal Social Security Administration.

(2) If the information provided by the registrant on the registration affidavit cannot be verified pursuant to paragraph (1) but the registrant is otherwise eligible to vote, the registrant shall be issued a unique identification number pursuant to Section 2150 and the conditional voter registration shall be deemed effective.

(d) The county elections official shall offer conditional voter registration and voting pursuant to this article, in accordance with all of the following procedures:

(1) The elections official shall provide conditional voter registration and voting pursuant to this article at all permanent and satellite offices of the county elections official and all polling places in the county.

(2) The elections official shall advise registrants that a conditional voter registration will be effective only if the registrant is determined to be eligible to register to vote for the election and the information provided by the registrant on the registration affidavit is verified pursuant to subdivision (c).

(3) The elections official shall conduct the receipt and handling of each conditional voter registration and offer and receive a corresponding ballot in a manner that protects the secrecy of the ballot and allows the elections official to process the registration, determine the registrant's eligibility to register, and validate the registrant's information before counting or rejecting the corresponding ballot.

(4) After receiving a conditional voter registration, the elections official shall process the registration, determine the registrant's eligibility to register, and attempt to validate the registrant's information.

(5) If a conditional registration is deemed effective, the elections official shall include the corresponding ballot in the official canvass.

(e) After receiving a conditional voter registration, the elections official shall provide a provisional ballot in accordance with the following procedures:

(1) If the elections office, satellite office, or polling place is equipped with an electronic poll book, or other means to determine the voter's precinct, the elections official shall provide the voter with a ballot for the voter's precinct if the ballot is available. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(2) If the elections official is unable to determine the voter's precinct, or a ballot for the voter's precinct is unavailable, the elections official shall provide the voter with a ballot and inform the voter that only the votes for the candidates and measures on which the voter would be entitled to vote in the voter's assigned precinct may be counted pursuant to paragraph (3) of subdivision (c) of Section 14310. The ballot may be cast by any means available at the elections office, satellite office, or polling place.

(3) Notwithstanding paragraph (2), if the elections official is able to determine the voter's precinct, but a ballot for the voter's precinct is unavailable, the elections official may inform the voter of the location of the voter's polling place. A voter described in this paragraph shall not be required to vote at the voter's polling place and may instead, at the voter's choosing, cast a ballot pursuant to paragraph (2).

(4) This subdivision does not apply to elections conducted pursuant to Section 4005 or 4007.

(f) An elections official may offer a nonprovisional ballot to a registrant if the official does both of the following:

(1) Uses the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. 20901 et seq.) to do all of the following before issuing the nonprovisional ballot:

(A) Verify that the registrant is deemed eligible to register to vote.

(B) Verify that the registrant has not voted in the state in that election.

(C) Verify that the registrant has not been included on a roster for that election in another county in the state that is not conducting elections pursuant to Section 4005.

(D) Update the voter's record to indicate that the voter has voted in that election.

(2) If the registrant has been included on a roster for that election in that county, the official updates that roster to indicate that the voter has voted and shall not be issued another nonprovisional ballot for that election.

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

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 2170 of the Elections Code proposed by both this bill and AB 693. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 2170 of the Elections Code, and (3) this bill is enacted after AB 693, in which case Section 1 of this bill shall not become operative.