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**SB-739 Elections: vote by mail ballots and false or misleading information.** (2019-2020)

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Date Published: 09/21/2020 09:00 PM

**Senate Bill No. 739**

**CHAPTER 109**

An act to amend Section 18302, and to amend, add, and repeal Section 3022, of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 18, 2020. Filed with Secretary of State September 18, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 739, Stern. Elections: vote by mail ballots and false or misleading information.

Existing law requires county elections officials to mail a vote by mail ballot to every registered voter for the November 3, 2020, statewide general election. Existing law requires elections officials to include with the county voter information guide an application for a vote by mail ballot.

This bill would make this requirement to include with the county voter information guide an application for a vote by mail ballot inapplicable for the November 3, 2020, statewide general election.

Existing law makes it a misdemeanor for a person, with actual knowledge and intent to deceive, to cause to be distributed or to distribute literature or any other form of communication to a voter that the person knows to include voting information that is incorrect, false, or misleading, as specified.

This bill would specifically include within this prohibition a false or misleading communication regarding the qualifications to apply for, receive, or return a vote by mail ballot. By creating a new crime, 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 no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

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

**SECTION 1.** Section 3022 of the Elections Code is amended to read:

**3022.** (a) The elections official shall include with the county voter information guide an application for a vote by mail ballot.

(b) For the statewide general election to be held on November 3, 2020, the elections official may, but is not required to, include with the county voter information guide an application for a vote by mail ballot.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

**SEC. 2.** Section 3022 is added to the Elections Code, to read:

**3022.** (a) The elections official shall include with the county voter information guide an application for a vote by mail ballot.

(b) This section shall become operative on January 1, 2021.

**SEC. 3.** Section 18302 of the Elections Code is amended to read:

**18302.** (a) A person is guilty of a misdemeanor who knowingly causes to be mailed or distributed, or knowingly mails or distributes, literature to a voter that includes a designation of the voter's precinct polling place other than a precinct polling place listed for that voter in an official precinct polling list that constituted the latest official precinct polling list at sometime not more than 30 days prior to the mailing or distribution.

(b) A person is guilty of a misdemeanor who, with actual knowledge and intent to deceive, causes to be distributed or distributes, including distribution by mail, radio or television broadcast, telephone call, text message, email, or any other electronic means, including over the Internet, literature or any other form of communication to a voter that includes any of the following:

(1) The incorrect location of a vote center, office of an elections official, satellite office of an elections official where voting is permitted, vote by mail ballot drop box, or vote by mail ballot drop-off location.

(2) False or misleading information regarding the qualifications to vote or to register to vote.

(3) False or misleading information regarding the qualifications to apply for, receive, or return a vote by mail ballot.

(4) False or misleading information regarding the date of an election or the days, dates, or times voting may occur at a place described in paragraph (1).

**SEC. 4.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 5.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure voters are not misled about their voting rights before the November 3, 2020, statewide general election and a proper administration of that election, it is necessary that this act take effect immediately.