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SB-504 Elections: voter registration. (2021-2022)

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Senate Bill No. 504

CHAPTER 14

An act to amend Sections 2150 and 2170 of, to repeal Sections 3022 and 13315 of, and to repeal and add Section 2212 of, the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 31, 2022. Filed with Secretary of State March 31, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 504, Becker. Elections: voter registration.

(1) Existing law requires elections officials to mail a ballot to every registered voter for each election. Existing law permits a person to apply for permanent vote by mail status while registering to vote, and requires elections officials to include an application for a vote by mail ballot with each voter information guide mailed to voters.

This bill would repeal these provisions regarding applications to vote by mail to account for the requirement that every registered voter receive a vote by mail ballot for each election.

(2) Existing law authorizes an individual who is eligible to register to vote to complete and deliver to a county elections official a conditional voter registration application that is deemed effective after the elections official determines the individual's eligibility to vote and validates the information on the application. Existing law authorizes a voter who has conditionally registered to cast a provisional or nonprovisional ballot during the 14 days immediately preceding an election or on the day of the election, as specified. Existing law authorizes military and overseas voters, as defined, to register for, and to vote a vote by mail ballot in, any election within the state or within the precinct in which the voter last resided within the territorial limits of the United States, as specified.

This bill would clarify that otherwise qualified military and overseas voters and voters with disabilities may complete a conditional voter registration and cast a provisional ballot or nonprovisional ballot under these provisions. The bill would authorize the Secretary of State to adopt emergency regulations to implement provisions relating to conditional voter registration and would make related findings.

(3) Existing law requires the clerk of the superior court of each county to periodically furnish the Secretary of State and the county elections official with certain information regarding persons who have been committed to state prison for a felony conviction. Existing law requires the Secretary of State or the county elections official to cancel the affidavit of voter registration of persons who are currently imprisoned for the conviction of a felony.

This bill would repeal those provisions and instead require the Department of Corrections and Rehabilitation, on a weekly basis, to provide the Secretary of State with specified identifying information for persons imprisoned for the conviction of a felony and persons on parole or otherwise released from that imprisonment. The bill would require the Secretary of State to compare the identifying information received from the Department of Corrections and Rehabilitation with the statewide voter registration

database developed in compliance with the requirements of the federal Help America Vote Act of 2002, and to provide county elections officials with information regarding any matching registration records. The bill would require county elections officials to cancel the affidavits of voter registration of persons who are imprisoned and to notify persons who have been released from imprisonment that their voting rights are restored, that they may register to vote, and of the procedures for registering to vote. The bill would require the Secretary of State to prepare a form for county elections officials to provide this notice. The bill would immunize counties and county elections officials from liability based on actions taken in accordance with this bill based on erroneous information received from the Secretary of State or the Department of Corrections and Rehabilitation. The bill would create a presumption that a person who is ineligible to vote but receives a notice that their voting rights have been restored under these provisions, and then becomes registered or preregistered to vote and votes or attempts to vote in a subsequent election, is not guilty of fraudulently voting or attempting to vote, except as specified.

(4) By increasing the duties of local officials on matters relating to voter registration, the 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 the statutory provisions noted above.

(5) 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 2150 of the Elections Code is amended to read:

2150. (a) The affidavit of registration shall show:

(1) The facts necessary to establish the affiant as an elector.

(2) The affiant's name at length, including the person's given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at the affiant's option, by the designation of "Miss," "Ms.," "Mrs.," or "Mr." A person shall not be denied the right to register because of that person's failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(3) The affiant's place of residence, residence telephone number, if furnished, and email address, if furnished. A person shall not be denied the right to register because of the person's failure to furnish a telephone number or email address, and shall be so advised on the voter registration card.

(4) The affiant's mailing address, if different from the place of residence.

(5) The affiant's date of birth to establish that the affiant will be at least 18 years of age on or before the date of the next election. In the case of an affidavit of registration submitted pursuant to subdivision (d) of Section 2102, the affiant's date of birth to establish that the affiant is at least 16 years of age.

(6) The state or country of the affiant's birth.

(7) (A) In the case of an affiant who has been issued a current and valid driver's license, the affiant's driver's license number.

(B) In the case of any other affiant, other than an affiant to whom subparagraph (C) applies, the last four digits of the affiant's social security number.

(C) If a voter registration affiant has not been issued a current and valid driver's license or a social security number, the state shall assign the affiant a number that will serve to identify the affiant for voter registration purposes. If the state has a computerized list in effect under this paragraph and the list assigns unique identifying numbers to registrants, the number assigned under this subparagraph shall be the unique identifying number assigned under the list.

(8) The affiant's political party preference.

(9) That the affiant is currently not imprisoned for the conviction of a felony.

(10) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as preferring another party. If the affiant has been so registered, the affiant shall give an additional statement giving that address, name, or party.

(b) The affiant shall certify the content of the affidavit of registration as to its truthfulness and correctness, under penalty of perjury, with the signature of the affiant's name and the date of signing. If the affiant is unable to write, the affiant shall sign with a mark or cross. An affiant who is an individual with a disability may complete the affidavit with reasonable accommodations as needed.

(c) The affidavit of registration shall also contain a space that would enable the affiant to state the affiant's ethnicity or race, or both. An affiant shall not be denied the ability to register because the affiant declines to state the affiant's ethnicity or race.

(d) If a person assists the affiant in completing the affidavit of registration, that person shall sign and date the affidavit below the signature of the affiant.

(e) The Secretary of State may continue to supply existing affidavits of registration to county elections officials before printing new or revised forms that reflect the changes made to this section by Chapter 508 of the Statutes of 2007.

SEC. 2. 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, including military and overseas voters and voters with disabilities, 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. Sec. 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.

(g) The Secretary of State may adopt emergency regulations to implement this section. The Legislature finds and declares that such regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare because the regulations will ensure that elections officials have sufficient time to ensure that elections are held in a safe and accessible manner.

SEC. 3. Section 2212 of the Elections Code is repealed.

SEC. 4. Section 2212 is added to the Elections Code, to read:

2212. (a) For purposes of this section, the following definitions apply:

(1) "Conviction" has the same meaning as set forth in Section 2101.

(2) "Department" means the Department of Corrections and Rehabilitation.

(3) "Imprisoned" has the same meaning as set forth in Section 2101.

(4) "Parole" means a term of supervision by the department.

(5) "Statewide voter database" means the statewide voter registration database developed in compliance with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).

(b) The department shall provide to the Secretary of State, on a weekly basis and in a format prescribed by the Secretary of State, the identification information described in subdivision (c) for all of the following persons:

(1) Persons imprisoned for the conviction of a felony and under the jurisdiction of the department. To the extent available, identification information provided by the department regarding these persons shall include the date on which each person's term of imprisonment began.

(2) Persons on parole or persons released from imprisonment for the conviction of a felony and no longer under the jurisdiction of the department. To the extent available, identification information provided by the department regarding these persons shall include the dates on which each person's parole began and on which the person was discharged from the jurisdiction of the department.

(c) Personal identification information for the purposes of subdivision (b) includes all of the following:

- (1) All known first names.
- (2) All known last names.
- (3) All known middle names.
- (4) All known name suffixes.
- (5) Last known address.
- (6) Date of birth.
- (7) Last four digits of the person's social security number, if available.
- (8) Driver's license or state-issued identification number, if available.

(d) Upon receipt of the information described in subdivision (b), the Secretary of State shall do all the following:

- (1) Identify any registration record in the statewide voter database that contains personal identifying information that, for each of the unique identifiers described in subdivision (c), as available, matches information pertaining to the person described in subdivision (b).
- (2) For any matched records described in paragraph (1), provide the information described in subdivision (b) and the corresponding unique identifier or identifiers used in the statewide voter database to county elections officials within three days of receipt of the information from the department.

(e) Upon receipt of information from the Secretary of State pursuant to subdivision (d), a county elections official shall do all of the following:

- (1) Cancel the affidavit of registration of any person described in paragraph (1) of subdivision (b) whose registration information matches the unique identifier or identifiers used in the statewide voter database provided by the Secretary of State to the county.
- (2) Using the form prepared by the Secretary of State pursuant to subdivision (f), notify a person described in paragraph (2) of subdivision (b), and whose last known address is within the county based on the unique identifier or identifiers used in the statewide voter database provided by the Secretary of State to the county, that the person's voting rights are restored and advise the person that if the person is otherwise entitled to register to vote, the person may register to vote. The county elections official shall also provide the person with information regarding the procedure for registering to vote.

(f) The Secretary of State shall prepare a form to be used by county elections officials to provide the notice described in paragraph (2) of subdivision (e).

(g) A county or county elections official shall not be liable for taking or failing to take the actions described in subdivision (e) when the county or county elections official have received erroneous information from the Secretary of State or the department.

(h) If a person who is ineligible to vote receives a notice under paragraph (2) of subdivision (e), subsequently becomes registered or preregistered to vote, and votes or attempts to vote in an election held after the effective date of the person's registration or preregistration, that person shall be presumed to have acted with official authorization and shall not be guilty of fraudulently voting or attempting to vote pursuant to Section 18560, unless that person willfully votes or attempts to vote knowing that the person is not entitled to vote.

SEC. 5. Section 3022 of the Elections Code is repealed.

SEC. 6. Section 13315 of the Elections Code is repealed.

SEC. 7. 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. 8. 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:

To ensure that elections officials have sufficient time to ensure that elections are held in a manner that is secure and accessible to military and overseas voters, voters with disabilities, and formerly incarcerated voters, it is necessary for this act to take effect immediately.