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## AB-398 Voting: replacement ballots. (2023-2024)

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### Assembly Bill No. 398

#### CHAPTER 650

An act to amend Sections 3014 and 3109 of the Elections Code, relating to voting.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 398, Pellerin. Voting: replacement ballots.

Existing law requires an elections official to provide a 2nd vote by mail voter ballot to any voter upon receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or destroyed their original ballot.

This bill would remove the requirement that the voter provide a statement under penalty of perjury, and instead require the elections official to provide a replacement ballot upon request. The bill would require the voter making the request to provide the elections official with specified personal identifying information. The bill would also require the elections official, prior to issuing the replacement ballot, to advise the requester that a request for a replacement ballot made by a person other than the registered voter is a criminal offense. By imposing new duties on local elections officials, the 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.

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

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

##### **SECTION 1.** Section 3014 of the Elections Code is amended to read:

**3014.** (a) The elections official shall provide a replacement ballot to any voter upon receipt of a replacement ballot request from the voter. Both of the following apply to a request made pursuant to this subdivision:

(1) The voter making the request shall provide to the elections official personal identifying information that matches the information contained on the voter's affidavit of registration, including their first and last name, residence address, and date of birth.

(2) Prior to issuing a replacement ballot, the elections official shall advise the requester as follows: "Only the registered voter themselves may request a replacement ballot. A request for a replacement ballot that is made by any person other than the

registered voter is a criminal offense.”

(b) The elections official shall provide a replacement ballot to the voter’s representative upon receipt of a written request, on a form prescribed by the Secretary of State, signed by the voter under penalty of perjury, requesting that a ballot be provided to the voter’s representative. A ballot shall not be provided until both of the following occur:

(1) The elections official shall compare the signature on the written request with the signature or signatures in the voter’s record.

(2) The authorized representative shall sign an acknowledgment of receipt of the voter’s ballot.

(c) The voter shall mark the ballot, place it in the identification envelope, fill out and sign the identification envelope, and return the ballot pursuant to Section 3017. These ballots shall be processed and counted in the same manner as other vote by mail ballots.

(d) The elections official shall keep a record of each vote by mail voter ballot sent to and received from a voter and shall verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice. If it is determined that a voter has attempted to vote twice, both ballots shall be void.

**SEC. 2.** Section 3109 of the Elections Code is amended to read:

**3109.** If any military or overseas voter to whom a vote by mail ballot has been mailed and which ballot has not been voted by them returns to the county in which they are registered, or for a military or overseas voter qualified pursuant to paragraph (2) of subdivision (b) of Section 321, to the county in which the applicant’s parent or legal guardian resided when the parent or legal guardian last lived within the territorial limits of the United States or the District of Columbia on or before election day, they may apply for a replacement ballot pursuant to Section 3014. The elections official shall then issue another vote by mail ballot to the voter, or the elections official shall certify to the precinct board that the voter is eligible to vote in the election.

**SEC. 3.** 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.