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Elections. Voter Identification Requirements. Initiative Statute.

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Friday, November 1, 2013

Initiative Coordinator
Office of the Attorney General
State of California
PO Box 994255
Sacramento, CA 94244-25550

RECEIVED

NOV 06 2013

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Initiative Coordinator:

Pursuant to Article II, Section 10(d) of the California Constitution, I am submitting the attached proposed statewide ballot measure, The Common Sense Voting Act, to your office and request that you prepare a circulating title and summary of the measure as provided by law. I have also included with this letter the required signed statement pursuant to California Elections Code sections 9001 and 9608, and a check in the amount of \$200. My address as registered to vote is shown on Attachment 'A' to this letter.

Thank you for your time and attention to this important matter. Should you have any questions or require additional information, please contact: Elise Richmond, PO Box 7, Ramona, CA 92065. Email: gmv@guardmyvote.org

Very truly yours,


Elise Richmond

COMMON SENSE VOTING ACT

SECTION 1. Findings and Purposes

A. Findings

- (1) California legislation has recently been passed which negates many of the security measures formerly in place to protect the voting process.
- (2) California lags far behind national standards, by failing to implement a statewide database of registered voters, required by the federal Help America Vote Act of 2002.
- (3) Without a statewide database of registered voters, it remains possible for voters to remain registered and cast votes in multiple counties.
- (4) Many other states have taken action to improve the administration and integrity of their electoral processes, while California moves backwards by expanding registration without improving security, cutting budgets of local elections officials, and closing the process from the watchful eye of the general public.

B. Purposes

- (1) Improve the administration of elections in California by integrating common sense procedures, objective criteria and transparency.
- (2) Instill confidence in California's electoral process by adopting a process for verifying every voter's eligibility and identity without unduly burdening voters or election administrators.

SECTION 2. Common Sense Voting Act

[existing law unmodified by this measure is unformatted; deletions to existing law are signified by ~~strike through~~ type; additions to existing law are signified by underline type]

A. Section 2150.5 shall be added to the Elections Code to read:

2150.5. Any voter may request from the state or the elections official the assignment of a unique identifying number provided for in subsection (7)(C) of subdivision (a) of section 2150, and may use such number in lieu of a driver's license number or social security number where such number is required by any provision of this code.

B. Section 3006 of the Elections Code shall be amended to read:

3006. (a) A printed application that is to be distributed to a voter for requesting a vote by mail voter's ballot shall inform the voter that the application for the vote by mail voter's ballot must be received by the elections official not later than seven days prior to the date of the election and shall contain spaces for the following:

- (1) The printed name and residence address of the voter as it appears on the affidavit of registration.
- (2) The address to which the ballot is to be mailed.
- (3) The voter's signature.
- (4) The name and date of the election for which the request is to be made.

(5) The applicant's current, valid California Driver's license number or non-driver's California identification card number, or the applicant's Social Security number, or the voter's unique identifying number issued by the state or county elections official pursuant to section 2150.5.

(6) A photocopy of any identification compliant with subdivision (a) of Section 14216.5.

(b)(1) The information required by paragraphs (1) and (4) of subdivision (a) may be preprinted on the application. The information required by paragraphs (2) and (3) and (5) of subdivision (a) shall be personally affixed by the voter.

(2) An address, as required by paragraph (2) of subdivision (a), may not be the address of a political party, a political campaign headquarters, or a candidate's residence. However, a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that a vote by mail ballot be mailed to the candidate's residence address.

(3) An application that contains preprinted information shall contain a conspicuously printed statement substantially similar to the following: "You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside."

(c) The application shall inform the voter that if he or she is not affiliated with a political party, the voter may request a vote by mail ballot for a particular political party for the primary election, if that political party has adopted a party rule, duly noticed to the Secretary of State, authorizing that vote. The application shall contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall contain a checkoff box with a conspicuously printed statement that reads substantially similar to the following: "I am not presently affiliated with any political party. However, for this primary election only, I request a vote by mail ballot for the _____ Party." The name of the political party shall be personally affixed by the voter.

(d) The application shall provide the voter with information concerning the procedure for establishing permanent vote by mail voter status, and the basis upon which permanent vote by mail voter status is claimed.

(e) The application shall be attested to by the voter as to the truth and correctness of its content, and shall be signed under penalty of perjury.

(f) The elections official shall not provide a vote by mail ballot to a voter if the information provided by the voter on the application in accordance with subdivision (a) does not match the corresponding information on the voter's registration affidavit.

C. Section 3007.8 of the Elections Code shall be repealed:

~~3007.8. (a) A local elections official may offer a voter the ability to apply for a vote by mail voter's ballot by telephone.~~

~~(b) To apply by telephone, the applicant shall provide to the elections official personal identifying information that matches the information contained on the applicant's affidavit of registration, including first and last name, home address, and date of birth. The applicant's signature shall not be required.~~

~~(c) A person shall not apply for a vote by mail voter's ballot pursuant to this section using the name of, or on behalf of, another person.~~

~~(d) Prior to being asked for personal identifying information, an applicant applying for a vote by mail voter's ballot pursuant to this section shall be advised as follows:~~

~~“Only the registered voter himself or herself may apply for a vote by mail ballot. An application for a vote by mail ballot that is made by any person other than the registered voter is a criminal offense.”~~

~~(e) Except as otherwise provided in this section, all provisions of this code governing written applications for vote by mail voter's ballots shall apply to applications made by telephone.~~

D. Section 3011 of the Elections Code shall be amended to read:

3011. (a) The return envelope to accompany the vote by mail ballot shall contain all of the following in order for the envelope to be opened and the enclosed ballot to be removed and counted ~~The identification envelope shall contain all of the following:~~

~~(1)~~ A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

~~(2)~~ The signature of the voter as shown on the affidavit of registration.

~~(3)~~ Any one of the following identifying numbers:

~~(i)~~ The voter's unique identifying number issued pursuant to section 2150.5;

~~(ii)~~ The last four digits of the voter's current, valid California Driver's License number or non-driver's California identification card number; or

~~(iii)~~ The last four digits of the voter's Social Security number.

~~(34)~~ The residence address of the voter as shown on the affidavit of registration.

~~(5)~~ The voter's date of birth, including month, day and year.

~~(46)~~ The date of signing.

~~(57)~~ A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

~~(68)~~ A warning plainly stamped or printed on it that voting twice constitutes a crime.

~~(79)~~ A warning plainly stamped or printed on it that the voter must sign the envelope in his or her own handwriting and provide the information listed in paragraphs (3), (4) and (5) of this subdivision (a), which matches the information provided for in the voter's affidavit of registration in order for the ballot to be counted.

~~(810)~~ A statement that the voter has neither applied, nor intends to apply, for a vote by mail ballot from any other jurisdiction for the same election.

~~(911)~~ The name of the person authorized by the voter to return the vote by mail ballot pursuant to Section 3017.

~~(1012)~~ The relationship to the voter of the person authorized to return the vote by mail ballot.

~~(1113)~~ The signature of the person authorized to return the vote by mail ballot.

~~(14)~~ A security flap or sleeve to conceal the voter's signature and numeric identifying information during mailing, with such security flap able to be removed by the canvassing board without causing the envelope to be opened until such time as the canvassing board has verified the return envelope contains all information required under subdivision (a) of this subsection.

~~(b)~~ An elections official shall verify that the return envelope contains the voter's signature, residence address, numeric identifying information required pursuant to subdivision (a) paragraph (3), and date of birth consistent with the voter's corresponding voter file or state or federal records, and, if applicable, that all information required under subdivision (a) paragraphs (11) through (13), are verified, before the return envelope may be opened or the enclosed ballot removed or counted.

(bc) Except at a primary election for partisan office, and notwithstanding any other provision of law, the vote by mail voter's party affiliation may not be stamped or printed on the envelope.

E. Section 3019 of the Elections Code shall be amended to read:

3019. Upon receipt of the vote by mail ballot the elections official shall compare the signature, the voter's numeric identifying information required by subdivision (a) paragraph (3) of section 3011, residence address and date of birth on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his or her office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures, numeric identifying information, residence address or date of birth do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature, numeric identifying information, residence address and date of birth of the voter's application with the affidavit pursuant to Section 3009, the application may be used rather than the affidavit to make the signature identification check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

In determining from the records of registration if the signature, the voter's numeric identifying information required by subdivision (a) paragraph (3) of section 3011, and residence address on the identification envelope appear to be the same as that on the affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

In addition to any other applicable procedures, provisional ballot envelopes and provisional ballots shall be processed in accordance with this section.

F. Section 3201 of the Elections Code shall be amended to read:

3201. Any voter may apply for permanent vote by mail status. Application for permanent vote by mail status shall be made in accordance with Section 3001, 3100, or 3304. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

- (a) The applicant's name at length.
- (b) The applicant's residence address.
- (c) The address where the ballot is to be mailed, if different from the place of residence.
- (d) The signature of the applicant.
- (e) The applicant's current, valid California driver's license number or non-driver's California identification card number, or of the applicant's Social Security number, or the voter's unique identifying number issued by the state or county elections official pursuant to section 2150.5.
- (f) A photocopy of any identification compliant with subdivision (a) of section 14216.5.

The county elections official shall require all permanent vote by mail voters to comply with this section, including voters who submitted an application prior to the effective date of this section in order to receive a ballot for any election held on or after the effective date of this section.

(g) The elections official shall not provide a vote by mail ballot to a voter if the information provided by the voter on the application does not match the corresponding information on the voter's registration affidavit.

G. Section 14216.5 shall be added to the Elections Code to read:

14216.5. (a) Prior to receiving a ballot, a voter shall present to a member of the precinct board proof of identification that meets all of the following requirements:

- (1) The document shows the name of the voter;
- (2) The document shows the date of birth of the voter, including month, day and year;
- (3) The document shows an address of the voter;
- (4) The document shows a photograph that appears to be the voter;
- (5) The document was issued by the United States or the State of California (excluding public colleges and universities) or is a valid tribal member ID card issued by an Indian tribe recognized by the U.S. government; and
- (6) The document includes an expiration date, and the document is not expired at the time of voting or expired less than five years prior to the date of the election.

(b) A member of the precinct board shall provide a ballot to the voter after confirming that the identification presented by a voter complies with subdivision (a) and that the information described in paragraphs (1), (2) and (3) of subdivision (a) on the identification presented matches the information printed for the voter in the index of registration or roster.

(c) If a voter is unable to or refuses to provide proof of identification pursuant to subdivision (a), he or she shall not be prohibited from voting, but shall be required to execute a declaration, certified to be correct under penalty of perjury, declaring that he or she is legally registered to vote. Upon execution of the declaration, the voter shall be issued a provisional ballot pursuant to section 14310 and an envelope to be completed and processed in the same manner as a vote by mail return envelope.

(d) Regulations adopted by the Secretary of State with respect to acceptable forms of proof of a voter's residency or identity shall comply with subdivision (a) of this section.

(e) If a statewide system is implemented for obtaining digital color photographs from any public agency identified in paragraph (5) of subdivision (a) of this section, and such digital color photographs are incorporated into the printed or digital roster or index of voters available to every precinct board such that a photograph of the voter may be compared with the individual presenting himself or herself to vote, such voter shall not be required to present additional proof of identification to receive a ballot.

H. Section 14310.5 shall be added to the Elections Code to read:

14310.5. If a voter is provided a provisional ballot in accordance with subdivision (c) of section 14216.5, the provisional ballot shall not be opened or processed unless the voter provides proof of identification that complies with subdivision (a) of section 14216.5 to the elections official no later than the 14th day after the election, either by presenting proof of identification in person at the office of the elections official or by providing a photocopy deposited with the United States Postal Service and postmarked no later than the 14th day after the election.

I. Section 15104 of the Elections Code shall be amended to read:

15104. (a) The processing of vote by mail ballot return envelopes, and the processing and counting of vote by mail ballots, shall be open to the public, both prior to and after the election.

(b) A member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the processing of vote by mail ballot return envelopes through the counting and disposition of the ballots.

(c) The elections official shall notify vote by mail voter observers and the public at least 48 hours in advance of the dates, times, and places where vote by mail ballots will be processed and counted. At least 48 hours prior to processing vote by mail ballots, the elections official shall publish, pursuant to Section 6061 of the Government Code, and post in his or her office, established written procedures provided to elections workers that shall apply to the processing of vote by mail ballots, including but not limited to whether any electronic equipment is used in the verifying of signatures, what standards apply to verifying that a signature matches or does not match, and the processes for observers to raise challenges pursuant to subdivision (d). These established written procedures, and adherence to the established written procedures, shall be subject to judicial review in any action brought by a registered voter in the jurisdiction.

(d) Notwithstanding paragraph (2) of subdivision (b) of Section 2194, vote by mail voter observers shall be allowed sufficiently close access to enable them to observe the vote by mail ballot return envelopes and the signatures, addresses, and numeric identifying information thereon and shall be allowed to challenge the elections official and/or through judicial review whether the vote by mail envelopes and ballots contain the information required under Section 3011 of the Elections Code, including but not limited to signatures and numeric identifying information that matches the information in the voter's registration affidavit and voter file and challenge whether those individuals handling vote by mail ballots are following established procedures, including all of the following:

(1) Verifying signatures, ~~and~~ addresses, numeric identifying information and date of birth on the vote by mail ballot return envelopes by comparing them to voter registration information.

(2) Duplicating accurately damaged or defective ballots.

(3) Securing vote by mail ballots to prevent tampering with them before they are counted on election day.

For purposes of this subdivision (d), "challenge" means to question or to seek review or reconsideration of a decision by an elections staff person by the registrar of voters or equivalent official, or by a court of law.

(e) A vote by mail voter observer shall not interfere with the orderly processing of vote by mail ballot return envelopes or the processing and counting of vote by mail ballots, including the touching or handling of the ballots.

(f) In addition to any other applicable procedures, provisional ballot envelopes and provisional ballots shall be processed in accordance with this section.

J. Section 23000 of the Elections Code shall be added to read:

23000. Notwithstanding any other provision of law, including Section 17581 of the Government Code, local agency reimbursement from the state shall not be suspended for performance of

duties mandated by the Elections Code or any other code relating to registering voters, maintaining voter registration databases, voting or administration of elections.

K. Section 14902.5 shall be added to the Vehicle Code to read:

14902.5. The fee for an original or replacement identification card shall be waived for a person who requests the identification card for purposes of satisfying the requirement for Section 3011 or 14216.5 of the Elections Code.

SECTION 3. Effective Date

The provisions of this act shall become effective for all elections held on or after January 1, 2016.

SECTION 4. Severability

If any provision of this act, or part thereof, is for any reason held invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SECTION 5. Amendment and Liberal Construction

This act shall not be amended by the Legislature except by a statute passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring. This act shall be broadly construed to accomplish its purpose of ensuring election integrity by verifying voter identification for voting purposes and instilling consistency, objectivity and transparency to the administration of all elections in California.