

ASSEMBLY BILL

No. 331

Introduced by Assembly Member Pellerin

January 27, 2025

An act to amend Sections 15371, 15372, 15375, 15400, and 18568 of, and to add Sections 9094.6 and 13318 to, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 331, as introduced, Pellerin. Elections: duties of election officials: voter information guides.

(1) Existing law requires an elections official, upon completion of the count, to add the results of write-in votes and any paper ballots used as certified by the precinct board, and thereupon declare the vote. Existing law requires the elections official to prepare a certified statement of the results of the election and submit it to the governing body within 30 days of the election, as specified. Existing law requires the elections official to send to the Secretary of State within 31 days of the election in an electronic format a complete copy of specified election results, including the vote given for persons for electors of President and Vice President of the United States, all candidates voted for statewide office, and all statewide measures.

This bill would specify that the duties described above imposed on election officials are ministerial and nondiscretionary.

This bill would require elections officials who fail to prepare a certified statement of the result of the election, as described above, to immediately deliver all records and other information pertaining to the election to the Secretary of State. The bill would require the Secretary of State to then make all necessary determinations and certify the results

of the election as soon as practicable. The bill would specify that all costs associated with the Secretary of State completing the canvass and certification of the election must be borne by the county that failed to timely certify its election results.

(2) Existing law requires a governing body to declare elected or nominated the person having the highest number of votes for each office voted on at an election under its jurisdiction and to declare the results of each measure voted on at an election under its jurisdiction.

This bill would specify that these duties are ministerial and nondiscretionary.

(3) Existing law requires the Secretary of State to prepare a state voter information guide that includes, among other things, a complete copy of each state measure, the Voter Bill of Rights, and information on candidates for the office of United States Senator and the offices of President and Vice President, as specified. Existing law requires county elections officials to prepare a county voter information guide that contains, among other things, voluntary statements by a candidate for nonpartisan elective office.

This bill would require the Secretary of State and county elections officials to prepare voter information guides for jail facilities in a format that will be accepted by jail facilities. The bill would require jail officials to work in good faith with the Secretary of State and county election officials to ensure delivery of state and county voter information guides to their facilities for each primary and general election. By requiring county elections officials to prepare voter information guides for each jail in their jurisdiction, the bill would impose a state-mandated local program.

(4) Existing law makes it a crime to display a container for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box. Existing law also makes it a crime to direct or solicit a voter to place a ballot in such a container. Existing law makes these crimes punishable by a fine not to exceed \$1,000, by imprisonment for 16 months or two or three years, or by both fine and imprisonment.

This bill would also make it a crime to display an envelope for the purpose of collecting ballots, with the intent to deceive a voter into casting a ballot in an unofficial ballot box. The bill would make it a crime to direct or solicit a voter to place a ballot in such an envelope. By expanding the scope of these crimes, the bill would impose a state-mandated local program.

(5) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so 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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9094.6 is added to the Elections Code,
2 to read:

3 9094.6. (a) The Secretary of State shall prepare a state voter
4 information guide for each jail in the state in a format that will be
5 accepted by jail facilities and shall make that guide available to
6 eligible voters inside each facility.

7 (b) The number of state voter information guides the Secretary
8 of State makes available to eligible voters inside each facility shall
9 be equal to either of the following, as applicable:

10 (1) At least 30 percent of the number of eligible voters inside
11 the facility, if the guides will be in a location accessible by all
12 eligible voters.

13 (2) Equal to the number of eligible voters inside the facility, if
14 the guides will be delivered individually to each eligible voter

15 (c) Jail officials shall work in good faith with the Secretary of
16 State to ensure delivery of state voter information guides to their
17 facilities for each primary and general election.

18 SEC. 2. Section 13318 is added to the Elections Code, to read:

19 13318. (a) County elections officials shall prepare county voter
20 information guides for each jail within their jurisdiction in a format
21 that will be accepted by the jail facility and shall make that guide
22 available to eligible voters inside the facility.

23 (b) The number of county voter information guides the county
24 elections officials make available to eligible voters inside the
25 facility shall be equal to either of the following, as applicable:

1 (1) At least 30 percent of the number of eligible voters inside
2 the facility, if the guides will be in a location accessible by all
3 eligible voters.

4 (2) Equal to the number of eligible voters inside the facility, if
5 the guides will be delivered individually to each eligible voter

6 (c) Jail officials shall work in good faith with county election
7 officials to ensure delivery of state and county voter information
8 guides to their facilities for each primary and general election.

9 SEC. 3. Section 15371 of the Elections Code is amended to
10 read:

11 15371. (a) Upon completion of the count, the elections official
12 shall add to the results as so determined, the results of the write-in
13 votes and any paper ballots used as certified by the precinct board,
14 and thereupon shall declare the vote, and forthwith post one copy
15 at the counting place for public inspection.

16 (b) *The duties imposed on election officials pursuant to*
17 *subdivision (a) are ministerial and nondiscretionary.*

18 SEC. 4. Section 15372 of the Elections Code is amended to
19 read:

20 15372. (a) The elections official shall prepare a certified
21 statement of the results of the election and submit it to the
22 governing body within 30 days of the election or, in the case of
23 school district, community college district, county board of
24 education, or special district elections conducted on the first
25 Tuesday after the first Monday in November of odd-numbered
26 years, no later than the last Monday before the last Friday of that
27 month.

28 (b) The elections official shall post the certified statement of
29 the results of the election on ~~his or her Internet Web site~~ *the*
30 *elections official's internet website* in a downloadable spreadsheet
31 format that may include, but is not limited to, a comma-separated
32 values file or a tab-separated values file and that is compatible
33 with a spreadsheet software application that is widely used at the
34 time of the posting. The certified statement of the election results
35 shall be posted and maintained on the elections official's ~~Internet~~
36 ~~Web site~~ *internet website* ~~for a period of~~ at least 10 years following
37 the election. This subdivision shall apply only to an elections
38 official who uses a computer system that has the capability of
39 producing the election results in a downloadable spreadsheet format
40 without requiring modification of the computer system.

1 (c) The duties imposed on election officials pursuant to
2 subdivisions (a) and (b) are ministerial and nondiscretionary.

3 (d) (1) If the election official fails to prepare a certified
4 statement of the results of the election as specified in subdivision
5 (a), the election official shall immediately deliver all records and
6 other information pertaining to the election, including all ballots
7 and paper cast vote records, to the Secretary of State.

8 (2) After receipt of the records and information described in
9 paragraph (1), the Secretary of State shall make all necessary
10 determinations and certify the results of the election as soon as
11 practicable.

12 (3) The governing body and all other county staff necessary to
13 complete the canvass and certification of the election shall be
14 present and available at all times during the completion of the
15 canvass and certification by the Secretary of State.

16 (4) All costs associated with the completion of the canvass and
17 certification of the election by the Secretary of State shall be borne
18 by the county that fails to timely certify its election results.

19 SEC. 5. Section 15375 of the Elections Code is amended to
20 read:

21 15375. (a) The elections official shall send to the Secretary
22 of State within 31 days of the election in an electronic format in
23 the manner requested one complete copy of all results as to ~~all~~
24 each of the following:

25 ~~(a)~~

26 (1) All candidates voted for statewide office.

27 ~~(b)~~

28 (2) All candidates voted for the following offices:

29 ~~(1)~~

30 (A) Member of the Assembly.

31 ~~(2)~~

32 (B) Member of the Senate.

33 ~~(3)~~

34 (C) Member of the United States House of Representatives.

35 ~~(4)~~

36 (D) Member of the State Board of Equalization.

37 ~~(5)~~

38 (E) Justice of the Court of Appeal.

39 ~~(6)~~

40 (F) Judge of the superior court.

1 ~~(e)~~

2 (3) All persons voted for at the presidential primary. The results
3 for all persons voted for at the presidential primary for delegates
4 to national conventions shall be canvassed and shall be sent within
5 28 days after the election.

6 ~~(d)~~

7 (4) The vote given for persons for electors of President and Vice
8 President of the United States. The results for presidential electors
9 shall be endorsed “Presidential Election Returns” and shall be
10 canvassed and sent within 28 days after the election.

11 ~~(e)~~

12 (5) All statewide measures.

13 ~~(f)~~

14 (6) The total number of ballots cast.

15 (b) *The duties imposed on election officials pursuant to*
16 *subdivision (a) are ministerial and nondiscretionary.*

17 SEC. 6. Section 15400 of the Elections Code is amended to
18 read:

19 15400. ~~The~~ (a) *It is the ministerial and nondiscretionary duty*
20 *of the governing body shall to declare elected or nominated to each*
21 *office voted on at each election under its jurisdiction the person*
22 *having the highest number of votes for that office, or who was*
23 *elected or nominated under the exceptions noted in Section 15452.*

24 ~~The~~

25 (b) *It is the ministerial and nondiscretionary duty of the*
26 *governing board shall also to declare the results of each election*
27 *under its jurisdiction as to each measure voted on at the election.*

28 SEC. 7. Section 18568 of the Elections Code is amended to
29 read:

30 18568. Every person is punishable by a fine not exceeding one
31 thousand dollars (\$1,000), or by imprisonment pursuant to
32 subdivision (h) of Section 1170 of the Penal Code for 16 months
33 or two or three years, or by both that fine and imprisonment, who:

34 (a) Aids in changing or destroying any poll list or official ballot.

35 (b) Aids in wrongfully placing any ballots in the ballot container
36 or in taking any therefrom.

37 (c) Adds or attempts to add any ballots to those legally polled
38 at any election by fraudulently putting them into the ballot
39 container, either before or after the ballots therein have been
40 counted.

1 (d) Adds to or mixes with, or attempts to add to or mix with,
2 the ballots polled, any other ballots, while they are being counted
3 or canvassed or at any other time, with intent to change the result
4 of the election, or allows another to do so, when in the person's
5 power to prevent it.

6 (e) Carries away or destroys, attempts to carry away or destroy,
7 or knowingly allows another to carry away or destroy, any poll
8 list, ballot container, or ballots lawfully polled or who willfully
9 detains, mutilates, or destroys any election returns.

10 (f) Removes any unvoted ballots from the polling place before
11 the completion of the ballot count.

12 (g) Displays a container *or provides an envelope* for the purpose
13 of collecting *or returning* ballots, with the intent to deceive a voter
14 into casting a ballot in an unofficial ballot ~~box~~ *or returning a*
15 *ballot in an unofficial ballot return envelope*. Evidence of intent
16 to deceive may include using the word "official" on the ~~container~~,
17 *container or envelope*, or otherwise fashioning the container *or*
18 *envelope* in a way that is likely to deceive a voter into believing
19 that the container *or envelope* is an official collection box *or*
20 *official ballot return envelope* that has been approved by an
21 elections official.

22 (h) Directs or solicits a voter to place a ballot in a container *or*
23 *envelope* prohibited by subdivision (g).

24 SEC. 8. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution for certain
26 costs that may be incurred by a local agency or school district
27 because, in that regard, this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty for a crime
29 or infraction, within the meaning of Section 17556 of the
30 Government Code, or changes the definition of a crime within the
31 meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 However, if the Commission on State Mandates determines that
34 this act contains other costs mandated by the state, reimbursement
35 to local agencies and school districts for those costs shall be made
36 pursuant to Part 7 (commencing with Section 17500) of Division
37 4 of Title 2 of the Government Code.