

AMENDED IN ASSEMBLY MARCH 29, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1403**

---

---

**Introduced by Assembly Member Obernolte**

February 17, 2017

---

---

An act to ~~add~~ *amend* Section ~~3106.5~~ to *3106* of the Elections Code, relating to military and overseas voters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1403, as amended, Obernolte. Military and overseas voters: ~~Internet voting.~~ *return of ballot by email.*

Existing law sets forth the procedures for military or overseas voters, as defined, to register to vote, to apply for voting ballots, and to vote. Existing law requires unvoted voting materials to be electronically transmitted to a military or overseas voter and authorizes a voter to return his or her vote by mail ballot by facsimile transmission.

This bill would authorize a military or overseas voter to ~~cast his or her vote on the Internet by electronically marking his or her ballot and securely transmitting the voted ballot using the Internet.~~ The bill would require the Secretary of State to develop standardized procedures and guidelines for the electronic return of ballots on or before January 1, 2019. *return his or her vote by mail ballot by email in addition to facsimile transmission.*

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.  
State-mandated local program: yes.

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

1 SECTION 1. Section 3106 of the Elections Code is amended  
2 to read:

3 3106. (a) A military or overseas voter who is living outside  
4 of the territorial limits of the United States or the District of  
5 Columbia, or is called for military service within the United States  
6 on or after the final date to make application for a vote by mail  
7 ballot, may return his or her ballot by *email or* facsimile  
8 transmission. To be counted, the ballot returned by *email or*  
9 facsimile transmission shall be received by the voter’s elections  
10 official no later than the closing of the polls on election day and  
11 shall be accompanied by an identification envelope containing all  
12 of the information required by Section 3011 and an oath of voter  
13 declaration in substantially the following form:

14  
15 OATH OF VOTER  
16 I, \_\_\_\_\_, acknowledge that by returning my voted  
17 ballot by *email or* facsimile transmission I have waived my right to have my  
18 ballot  
19 kept secret. Nevertheless, I understand that, as with any vote by mail  
20 voter, my signature, whether on this oath of voter form or my identification  
21 envelope, will be permanently separated from my voted ballot to maintain  
22 its secrecy at the outset of the tabulation process and thereafter.

23  
24 My residence address (last U.S. residence for voter qualification purposes)  
25 is \_\_\_\_\_.  
26 (Street Address) (City) (ZIP Code)

27  
28 My current mailing address is \_\_\_\_\_.  
29 (Street Address) (City) (ZIP Code)

30  
31 My email address is \_\_\_\_\_. My facsimile transmission  
32 number is \_\_\_\_\_.

1  
 2 I am a resident of \_\_\_\_\_ County, State of California, or am qualified  
 3 as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of  
 4 the Elections Code and I have not applied, nor intend to apply, for a vote by  
 5 mail ballot from any other jurisdiction for the same election.

6  
 7 I declare under penalty of perjury under the laws of the State of California  
 8 that the foregoing is true and correct.

9  
 10 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

11  
 12 (Signature) \_\_\_\_\_  
 13 (voter) (power of attorney cannot be accepted)

14  
 15 YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE  
 16 ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND  
 17 IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED  
 18 BY *EMAIL OR FACSIMILE TRANSMISSION.*”

19  
 20 (b) Notwithstanding the voter’s waiver of the right to a secret  
 21 ballot, each elections official shall adopt appropriate procedures  
 22 to protect the secrecy of ballots returned by *email or facsimile*  
 23 transmission.

24 (c) Upon receipt of a ballot returned by *email or facsimile*  
 25 transmission, the elections official shall determine the voter’s  
 26 eligibility to vote by comparing the signature on the return  
 27 information with the signature on the voter’s affidavit of  
 28 registration or any signature permitted for comparison under  
 29 Section 3019. The ballot shall be duplicated and all materials  
 30 preserved according to procedures set forth in this code.

31 (d) Notwithstanding subdivision (a), a military or overseas voter  
 32 who is permitted to return his or her ballot by *email or facsimile*  
 33 transmission is, nonetheless, encouraged to return his or her ballot  
 34 by mail or in person if possible. A military or overseas voter should  
 35 return a ballot by *email or facsimile* transmission only if doing so  
 36 is necessary for the ballot to be received before the close of polls  
 37 on election day.

38 ~~SECTION 1. Section 3106.5 is added to the Elections Code,~~  
 39 ~~to read:~~

1     ~~3106.5.—(a) A military or overseas voter, as described in~~  
2 ~~subdivision (b) of Section 300, may cast his or her vote on the~~  
3 ~~Internet by electronically marking his or her ballot and securely~~  
4 ~~transmitting the voted ballot using the Internet.~~

5     ~~(b) On or before January 1, 2019, the Secretary of State shall~~  
6 ~~develop standardized procedures and guidelines for the return of~~  
7 ~~ballots pursuant to this section.~~

8     SEC. 2. If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.