Assembly Bill No. 1403

Introduced by Assembly Member Obernolte

February 17, 2017

An act to add 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.


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

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

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

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“OATH OF VOTER

I, ___________________________, acknowledge that by returning my voted ballot by email or facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any vote by mail voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residence address (last U.S. residence for voter qualification purposes) is ___________________________.

(Street Address) (City) (ZIP Code)

My current mailing address is ___________________________.

(Street Address) (City) (ZIP Code)

My email address is _________________. My facsimile transmission number is _________________.
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I am a resident of __________ County, State of California, or am qualified as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of the Elections Code and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

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

Dated this __________ day of ______, 20_____.

(Signature) ____________________________

(voter) (power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY EMAIL OR FACSIMILE TRANSMISSION."

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

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

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

SECTION 1. Section 3106.5 is added to the Elections Code, to read:
3106.5. (a) A military or overseas voter, as described in subdivision (b) of Section 300, may cast his or her vote on the Internet by electronically marking his or her ballot and securely transmitting the voted ballot using the Internet.

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

SEC. 2. 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.