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Elections

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Elections

Elections; voter intimidation

Elections Code § 14248 (repealed); §§ 29506, 29630.5, 29634, 29635, 29636 (new); §§ 29480, 29630, 29632 (amended).

SB 58 (Marks); 1989 STAT. Ch. 310

AB 377 (Polanco); 1989 STAT. Ch. 415

Under existing law, any person that destroys or removes voting supplies or voters' instructions from a polling place during an election commits a misdemeanor.¹ Chapter 310 expands existing law by prohibiting any person from removing, destroying, or altering signs which show the location of a polling place or which identify the areas that are within 100 feet of a polling place.²

Prior law allowed only precinct board³ members to receive a voted ballot from a voter, and prohibited any person from asking a voter to show a voted ballot.⁴ Chapter 310 prohibits anyone other than an elections official⁵ or precinct board member to receive, examine or ask to examine a voter's voted ballot.⁶

Under existing law, any person that uses or threatens to use force, coercion, or intimidation to persuade someone to vote or abstain from voting in any election commits a felony.⁷ Chapter 310 adds

1. CAL. ELEC. CODE § 29480(a) (West 1977).

2. 1989 Cal. Stat. ch. 310, sec. 1(a)(4), at ____ (amending CAL. ELEC. CODE § 29480(a)). See CAL. ELEC. CODE § 14005.3 (West 1989) (signs must be posted to identify areas in which electioneering and other activities listed in California Elections Code section 29470 are prohibited).

3. See CAL. ELEC. CODE § 39 (West 1977) (definition of precinct board).

4. 1976 Cal. Stat. ch. 220, sec. 6, at ____ (enacting CAL. ELEC. CODE § 14248) (repealed by 1989 Cal. Stat. ch. 310, sec. 1.5, at ____).

5. 1989 Cal. Stat. ch. 310, sec. 5, at ____ (enacting CAL. ELEC. CODE § 29636) (elections officials are the county clerk, the registrar of voters, and the city clerk).

6. *Id.* sec. 2, at ____ (enacting CAL. ELEC. CODE § 29506). Violations are punishable by a fine of up to \$10,000, a state prison sentence of 16 months or two to three years, or a maximum of one year in the county jail, or both. *Id.* Persons returning an absentee ballot under California Elections Code sections 1013 or 1017, and persons assisting disabled voters under California Elections Code section 14234, are exempt from the prohibitions of Chapter 310. *Id.*

7. CAL. ELEC. CODE § 29630 (West 1977) (amended by 1989 Cal. Stat. ch. 310, sec. 3, at ____). Violation of this section is a felony punishable by imprisonment in the state prison for 16 months or two to three years. *Id.*

that any person that hires or plans to use another person for this purpose also commits a felony.⁸ Any person who, without written permission from the proper elections official, is stationed in the immediate vicinity⁹ of a polling place while wearing the uniform of a peace officer,¹⁰ guard, or security person, or while carrying a firearm, is guilty of a crime.¹¹ Additionally, Chapter 310 prohibits any person, without written permission from an election official, to hire another person to wear the uniform of a peace officer, guard, or security person, or to carry a firearm in the vicinity of a polling place.¹² Peace officers and unarmed guards or security persons who are at the polling place in order to vote are exempt from this provision of Chapter 310,¹³ as are peace officers acting in the course of their public employment.¹⁴ Chapter 415 prohibits any person within 100 feet of a polling place from discouraging another person from voting by speaking to them regarding ballot choices or their qualifications to vote, or by displaying a sign regarding voters' qualifications.¹⁵

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8. 1989 Cal. Stat. ch. 310, sec. 3, at ____ (amending CAL. ELEC. CODE § 29630).

9. See 1989 Cal. Stat. ch. 310, sec. 5, at ____ (enacting CAL. ELEC. CODE § 29636) (immediate vicinity is the area within 100 feet from a room in which voters are casting ballots).

10. See CAL. PENAL CODE § 7 (West 1988) (definition of peace officer).

11. 1989 Cal. Stat. ch. 310, sec. 3.5, at ____ (enacting CAL. ELEC. CODE § 29634). Violations are punishable by a fine of up to \$10,000, a state prison sentence of 16 months or two to three years, or a maximum of one year in the county jail, or both. *Id. Compare id. with* 18 U.S.C. § 593 (1983) (prohibiting members of the Armed Forces of the United States from attempting to ascertain qualifications of voters, receiving a voted ballot from a voter, or from preventing or attempting to prevent by force, coercion, or intimidation any qualified voter from voting at any election).

12. 1989 Cal. Stat. ch. 310, sec. 4, at ____ (enacting CAL. ELEC. CODE § 29635). The manager of the property where the polling place is located is not subject to this prohibition if the guard or security person is not hired solely for election day. *Id.*

13. *Id.* Private guards or security persons hired by the manager of the property where the polling place is located are also exempt, if they are not hired exclusively for election day. *Id.*

14. *Id.*

15. *Id.* ch. 415, sec. 1, at ____ (enacting CAL. ELEC. CODE § 29630.5). Violators may receive a sentence of up to one year in the county jail or state prison. *Id.* Persons conspiring to violate this section are guilty of a felony. *Id.* (enacting CAL. ELEC. CODE § 29630.5(2)(b)). Chapters 310 and 415 appear to be in response to an incident of alleged voter intimidation which occurred in Orange County in November 1988, when privately-hired security guards were posted at twenty precincts in predominantly Hispanic neighborhoods. See *Hispanic Political Council v. Pringle*, No. SA CV 88-678-JSL (D. Cal., E.D. Cal., filed Dec. 12, 1988).