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# Elections

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# Elections

## Elections; facsimile transmission of special absentee ballots

Elections Code § 1202.1 (amended).  
SB 1205 (Hurt); 1993 STAT. Ch. 235

Under existing law, a special absentee voter<sup>1</sup> may mail or hand deliver an application<sup>2</sup> for a special absentee voter ballot.<sup>3</sup> The ballot must be delivered by an elections officer<sup>4</sup> using either mail or personal delivery.<sup>5</sup>

Chapter 235 provides that a qualified special absentee voter may apply for an absentee voter ballot by facsimile transmission.<sup>6</sup> Chapter 235 also

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1. See CAL. ELEC. CODE § 1000(a) (West 1977) (defining "absentee voter" as any voter casting a ballot in any way other than at a polling place); *id.* § 1000(c) (West 1977) (defining "special absentee voter" as an elector who is: (1) A member of the armed forces or any auxiliary branch thereof; (2) a citizen of the United States temporarily living outside of its territorial limits; (3) serving on a merchant vessel documented under the laws of the United States; or (4) a spouse or dependent of a member of the armed forces or auxiliary branch thereof).

2. See *id.* § 1006 (West Supp. 1993) (listing requirements regarding application for absentee ballots).

3. *Id.* § 1006(b)(3) (West Supp. 1993); *id.* § 1202.1(a) (amended by Chapter 235); see *Fischer v. Stout*, 741 P.2d 217, 222 (Ala. 1987) (holding that persons residing outside of the United States may register to vote in Alaska, and can have their votes counted in that state's elections); *cf.* 42 U.S.C. § 1973ff-2 (1986) (providing for write-in absentee ballots for overseas voters in general federal elections).

4. See CAL. ELEC. CODE § 1000(b) (West 1977) (defining "elections officer" as any county clerk, city clerk, registrar of voters, elections supervisor, or governing board having jurisdiction over elections).

5. *Id.* § 1007(b) (West Supp. 1993); see *id.* § 1200 (West Supp. 1993) (requiring that a registration card accompany the ballot if the special absentee voter is not registered); *id.* § 1202.1(b) (amended by Chapter 235) (allowing special absentee voters to send applications and have them processed 60 days before the election); *cf.* *id.* § 1002 (West Supp. 1993) (allowing regular absentee voter ballot applications to be processed only 29 days before the election). See generally 62 Op. Cal. Att'y Gen. 439, 440 (1979) (concluding that absentee ballots must be delivered by the elections official, or returned by the voter, by mail or in person and not by a third party, except in certain hardship cases authorized in California Elections Code § 1017). Applications for absentee ballots may be distributed by anyone, including a candidate or a member of his campaign staff. *Id.*; see ALAN REITMAN & ROBERT B. DAVIDSON, *THE ELECTORAL PROCESS: LAW OF PUBLIC ELECTIONS AND ELECTION CAMPAIGNS* 22-23, 46-59 (2d ed. 1980) (discussing absentee voter registration law for civilians and military personnel); ALAN REITMAN & ROBERT B. DAVIDSON, *THE ELECTORAL PROCESS: VOTING LAWS AND PROCEDURES*, app. at 130-33 (1972) (outlining the laws of the fifty states on registration and voting by military personnel); *id.* app. at 134-43 (1972) (outlining the fifty states' absentee voting requirements); Speech by Norman Luttbeg to the Symposium on Declining Voter Participation (Nov. 10-11, 1989), reprinted in *THE DISAPPEARANCE OF THE AMERICAN VOTER RE-VISITED*, at 3-12 (discussing voting trends in the United States and other countries, including compulsory voting in some foreign democracies).

6. CAL. ELEC. CODE § 1202.1(f) (amended by Chapter 235); see *supra* note 1 (defining qualified special absentee voters); SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 1205, at 2 (June 8, 1993) (stating that the Department of Defense, to facilitate this program, has established a toll-free telephone line so that overseas military and non-military voters can use facsimile machines for voting business without incurring the costs of long distance faxing); *cf.* GA. CODE ANN. § 21-3-283 (1993); KY. REV. STAT. ANN. § 117.085 (Baldwin 1992) (allowing applications for absentee ballots by facsimile).

provides that, upon request, elections officials shall send absentee voter ballots to qualified special absentee voters by facsimile.<sup>7</sup>

MJP

## Elections; surplus campaign funds

Elections Code § 12400 (amended); Government Code § 89517.5 (new); § 89519 (amended).  
SB 771 (Rosenthal); 1993 STAT. Ch. 1143

Under existing law, a former candidate<sup>1</sup> or elected officeholder<sup>2</sup> may use campaign funds<sup>3</sup> or surplus campaign funds under their control, or under the control of their committee,<sup>4</sup> for limited specified purposes.<sup>5</sup>

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7. CAL. ELEC. CODE § 1202.1(f) (amended by Chapter 235); *cf.* IND. CODE ANN. § 3-11-4-6 (West Supp. 1993); MONT. CODE ANN. §§ 13-13-276 to 277 (1993) (allowing absentee voter registration and voting by facsimile); N.D. CENT. CODE § 16.1-07-05 (1992) (allowing absentee uniformed services voters and qualified electors living outside of the United States to apply for ballots and vote by facsimile).

1. *See* CAL. ELEC. CODE § 604.5 (West 1977) (defining candidate as a person who under penalty of perjury declares in writing that he or she is a candidate for a named office); *see also* CAL. GOV'T CODE § 82007 (West 1993) (defining candidate).

2. *See* CAL. GOV'T. CODE § 82020 (West 1993) (defining elected officer as any person who holds an elected office or has been elected to an elective office).

3. *See id.* § 89511(b)(1) (West 1993) (defining campaign funds to include any contributions, cash, cash equivalents, and other assets received).

4. *See id.* § 82013 (West 1993) (defining committee to be any person or combination of persons who, in one calendar year, receive contributions totaling \$1000 or more, make expenditures totaling \$1000 or more, or make contributions totaling \$10,000 or more to other candidates or committees).

5. CAL. ELEC. CODE § 12400 (amended by Chapter 1143); *see id.* (listing the purposes to include repayment of loans reasonably related to political, legislative, or government activity, payment or campaign expenses, contributions to other candidates or political parties, pro rata repayment of contributors, donations to non-profit organizations, or held in a segregated fund to be used for future candidacy or elective office); CAL. GOV'T CODE § 89517 (West 1993) (prohibiting any expenditure of campaign funds for the purchase of real property, leasing real property, or refurbishing appliances or equipment where the candidate or elected officer resides); *id.* § 89519 (amended by Chapter 1143) (restating the purposes listed in California Election Code § 12400, and expanding the list to include payment of personal services related to committee expenses and attorneys fees for litigation arising directly out of a candidates or elected officials activities); *see also* 75 Op. Cal. Att'y Gen. 29, 30-32 (1992) (noting that California Government Code § 89519 is the only provision relating to surplus campaign funds of a former candidate or elected officer, and concluding that it does not apply to surplus campaign funds held by a ballot measure committee); 65 Op. Cal. Att'y Gen. 588, 588-89 (1982) (analyzing California Election Code §§ 12400-12407 and their impact on interest or dividend income derived from invested campaign funds); *cf.* D.C. CODE ANN. § 1-1472 (1992) (providing for the use of surplus campaign funds); KAN. STAT. ANN. § 25-4157a (Supp. 1992) (providing for the use of unexpended balances on termination of the campaign); OKLA. STAT. ANN. tit. 74, § 4217 (West Supp. 1993) (providing for the disposition of unused contributions). *See generally* Fair Political Practices Comm'n v. Superior Court, 25 Cal. 3d 33, 37-44, 599 P.2d

Chapter 1143 would allow campaign funds or surplus campaign funds to be used to pay for, or reimburse the state for, the costs of installing a home or office security system when the candidate or elected officeholder has received threats to his or her physical safety.<sup>6</sup>

*JCA/DMB*

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46, 47-51, 157 Cal. Rptr. 855, 856-60 (1979), *cert. denied*, 444 U.S. 1049 (1980) (discussing the constitutionality of the Political Reform Act of 1974).

6. CAL. ELEC. CODE § 12400(a)(2) (amended by Chapter 1143); CAL. GOV'T. CODE § 89517.5 (enacted by Chapter 1143); *see* CAL. ELEC. CODE § 12400(a)(2) (amended by Chapter 1143) (providing that the use of surplus campaign funds to repay the state the costs of installing and monitoring a home or office security system by a former candidate or elected officeholder who has received physical threats will be deemed to have a reasonable relationship to a political, legislative, or government activity, and thereby fall under California Election Code § 12400 as an allowable expense, so long as the threats arise from the candidate's activities or duties, have been reported to an appropriate law enforcement agency, and are reported as an expenditure of campaign funds); CAL. GOV'T CODE § 89519 (amended by Chapter 1143) (establishing that the use of surplus campaign funds to pay for or reimburse the state for the cost of installing and monitoring a home or office security system shall be deemed an outstanding campaign debt, thereby falling under the allowable uses of California Government Code § 89519, so long as the threats arise from the candidate's activities or duties, have been reported to an appropriate law enforcement agency, and are reported as an expenditure of campaign funds); *see also* Mark Gladstone, *State Paying for Security at Roberti's Residence*, L.A. TIMES, June 3, 1993, at A3 (explaining that the Senate Rules Committee authorized a \$10,500 dollar security system in Senator Roberti's home because of several serious incidents); Mark Gladstone, *Senate Backs Rosenthal Bill on Lawmakers' Security*, L.A. TIMES, May 28, 1993, at B1 (noting that Senator Rosenthal introduced the measure because of threats to other politicians and stating that Senator Hart objects to the measure because it will create a loophole in the Political Reform Act). *See generally* Kathryn Johnson, *How Lawmakers Misuse Your Campaign Donations*, U.S. NEWS & WORLD REP., Mar. 7, 1983, at 35 (listing numerous abuses of campaign contributions and identifying one Representative, Gus Yatron (D-Pa.), who outfitted his home with a security system to protect campaign records he stored there).

