

ELECTION OFFICERS' DIGEST

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Election Officers' Digest by Frank C. Jordan & U. S. Webb

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FRANK C. JORDAN & U. S. WEBB

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ELECTION OFFICERS' DIGEST

Prepared by the
Secretary of State and the Attorney General



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INTRODUCTION.

This brief digest of the election laws of the State of California, in so far as those laws affect the duties of election officers during the casting and canvassing of the vote, has been prepared by the Secretary of State and the Attorney General, pursuant to the provisions of section 1142a of the Political Code.

The compilers have endeavored to present the digest in such form as will readily indicate to the election officers the substance of such provisions of the Political Code and other election laws as they may find it most important to know in the performance of their duties. It contains wherever possible a reference to the code section or law by reference to which further examination may be made of the matter contained in any particular statement or provision. Its object is to furnish a guide to the election officers, and though it is in the main confined to the laws immediately affecting the powers and duties of such officers, it has been thought advisable to incorporate other matters incidentally related thereto to the end that this object might be more effectually attained.

It is to be understood that the digest relates only to the laws governing state, county and municipal elections and such other elections as are similarly conducted. No attempt has been made to state the law governing such elections as pertain only to school, district and other matters where the procedure differs entirely from the general procedure and as to which the particular provisions of special statutes control.

FRANK C. JORDAN,
Secretary of State.

U. S. WEBB,
Attorney General.

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ELECTION OFFICERS.

An election officer is a person who has been duly appointed to take charge of, and conduct, an election in a particular precinct, and who has qualified by taking the oath required by law. The persons so appointed and qualified constitute the board of election for that precinct. They are designated and distinguished with reference to their duties by the official titles of "Inspector," "Judge," and "Clerk," the number of members on a board, as well as the number thereon occupying those respective positions, varying according to the character of the precinct in which they are to act, as herein-after stated.

Defined.

Board of Election.

The inspector is the chief officer of the board. When no inspector is present one of the judges should exercise the powers and perform the duties of an inspector.

Chief officer.

Formerly the board of election for an election precinct comprised only those persons officially designated as inspectors or as judges, and though provision was made for the appointment of ballot clerks, such clerks were not members of the board. But under the law as it now reads the election officers appointed at each election or primary election for each precinct constitute the board of election for that precinct, and each inspector, judge and clerk appointed as an election officer for a precinct is a member of the board for that precinct (Pol. Code, Sec. 1142).

Each officer a member.

Where a power is conferred upon, or a duty is assigned to, an officer of election without regard to his position on the board it may be exercised or performed by any member thereof. Where a power is conferred upon, or a duty is assigned to, the board as a body, the action of the board pursuant thereto must be with the consent of a majority of the board then acting.

Exercise of powers.

By sections 1142 and 1151 of the Political Code the inspector, judges and clerks are authorized to distribute among themselves the extra duties devolving upon the board, in addition to their own duties, in such manner as they themselves shall deem most advantageous, and such extra duties assigned to the several officers by other sections of the Political Code shall be performed by the members of the board as said duties have been so distributed by them among themselves. However, under the law, special authority has been conferred upon, and particular duties assigned to, the respective members by their official designation, and when so conferred or assigned should, where possible, be exercised or performed by the officer occupying that position.

Distribution of duties.

The members of a board of election are required to be appointed, at least twenty-five days prior to the election, by the board having charge or control of the election in the political subdivision in which such election is to be held (Pol.

When and by whom appointed.

Code, Sec. 1142). For a state or county election the appointing power is the board of supervisors, and for a municipal election the city council or board of trustees of the city, except in a city, county, or a city and county, having a charter, in which case the appointing power is in that board or officer in whom it is vested by the terms of such charter (Pol. Code, Sees. 1075, 1076).

When by
County
Clerk.

If the election officers for any precinct have not been designated by the fifteenth day prior to the election, the county clerk is required to appoint such officers (Pol. Code, Sec. 1142), and if they have not been designated by the tenth day prior to the election the justice of the peace having jurisdiction over the territory comprising such precinct is required to appoint such officers (Pol. Code, Sec. 1132).

When by
Justice of
the Peace.

When by
Inspector.

If the justice fails to perform the duty imposed upon him, the inspector, if one has been appointed, shall perform such duty (Pol. Code, Sec. 1132), but must do so before the time for opening the polls.

When by
electors at
the polls.

If those appointed on an election board, or any of them, do not attend at the opening of the polls on the morning of an election, those qualified electors of the precinct present at that hour, including members of the board, if any, shall appoint qualified electors of the precinct present to fill the vacancies, as the case may require (Pol. Code, Sec. 1132).

Regular
precincts.
For which
elections
established.

The election precincts at each general state election, August primary election and presidential primary election shall be the regular election precincts established pursuant to law by the proper officials.

Number
on board;
regular
precinct.

For each regular precinct a board of election consists of one inspector, two judges and three clerks, except that in any precinct in which the total registration does not exceed one hundred electors, the board consists of one inspector, one judge and two clerks (Pol. Code, Sec. 1142).

Special or
consolidated
precincts
For which
elections
established.

Special election or consolidated election precincts may be established for any election mentioned in section 1044 of the Political Code (Pol. Code, Sec. 1133).

Number
on board;
special or
consolidated
precincts.

When special election or consolidated election precincts have been established for any municipal election provided for in section 1044 of the Political Code, the board of election for each such precinct consists of two inspectors, two judges and two clerks. When special election or consolidated election precincts have been established for any other election provided for by section 1044 of the Political Code, the board of election for each such precinct consists of one inspector, one judge and two clerks (Pol. Code, Sec. 1151).

What
elections are
provided for
by Pol. Code,
Sec. 1044.

The elections provided for in section 1044 of the Political Code are all municipal elections, where the same are held separate from state elections, all elections to elect boards of freeholders, or to vote upon proposed charters, or upon amendments to existing charters, and all other special elections.

including all special elections to vote upon or for or against any proposition or question authorized to be submitted to a vote (Pol. Code, Sec. 1044).

No person is eligible to act as an officer of election at any precinct who is not actually a resident of that precinct and a registered and qualified elector thereof, or who has within ninety days preceding such election been employed in any capacity, other than that of an election officer, by any county, or city and county, or incorporated city or town in which he resides; nor is any person eligible to act as a member of any election board who can not read and write the English language (Pol. Code, Sec. 1142).

Qualifications of members.

Each member upon a board of election in any county, or city and county, shall receive as compensation for his services a sum not to exceed ten dollars, to be paid by the county, or city and county, in which he acts (Pol. Code, Sec. 1072).

Compensation.

When, however, a person acts as an election officer at a municipal election he is to be paid by that municipality such compensation as its governing body shall determine.

The officers for primary elections shall be the same, and shall be appointed in the same manner, and shall receive the same compensation, as provided by law for general elections (Direct Prim. Law, Sec. 16, Pres. Prim. Act, Sec. 9).

For primary elections, officers how appointed.

It is a misdemeanor for any person who can not read and write the English language to act as a member of an election board, or for any person, who is otherwise eligible, to refuse to act upon such board after proper notification of his appointment, unless good and sufficient cause for such refusal is shown to the election board or board of supervisors (Pen. Code, Sec. 49a), or for any person, who has agreed to serve and has been regularly appointed as an election officer, to fail to act as such without lawful excuse (Pol. Code, Sec. 1142).

Penalties.

It is a felony to act as an election officer at any election without first having been appointed and qualified as such, or, not being an election officer, to perform any of the duties of an election officer, in regard to the handling or counting or canvassing of any ballots cast at any election (Pen. Code, Sec. 40).

Every person charged with the performance of any duty, under any law of this State relating to elections, who wilfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any such law, is, unless a different punishment is prescribed therefor by the Penal Code, punishable by a fine, or by imprisonment in the state prison, or by both (Pen. Code, Sec. 41).

It is a misdemeanor for any person to assign or in any manner transfer the compensation which he will receive or be entitled to receive, or to have allowed to him, for service as an election officer, until after the election is fully completed at his precinct, or until after the election returns from such precinct have been sealed and delivered to the county clerk, registrar of voters, postmaster, express agent, or other proper person authorized by law (Pol. Code, Sec. 1072a).