

# **YOUR VOTE DOES COUNT**

## **A Look at Mendocino County Voting**

May 15, 2008

### ***Summary***

Many polling locations in Mendocino County have been closed. There is increasing use of Vote-by-Mail balloting. As a result of these developments, many voters question whether the ballot that they put into the Mail Box instead of the Ballot Box reaches the Registrar's Office and is counted accurately. With a presidential election fast approaching, the Mendocino County 2007/2008 Grand Jury conducted a review of the County's electoral processes to find out:

**Who can vote?**

**Who can hold office?**

**The Who, Where, When, and How of Voting**

**Does every vote count and is it counted?**

### ***Methods***

The Grand Jury reviewed documents, California and Mendocino County websites, and visited the Registrar's Office to observe the vote verification and counting process. Jurors interviewed administrative personnel within the agency as well as the League of Women Voters.

### ***Background***

The Help America Vote Act (HAVA), passed by Congress in 2002, sets uniform standards nationwide for voter registration and election systems. One of HAVA's key provisions requires every state to set up a central database of registered voters whose identity has been verified. To comply with HAVA, Mendocino County put new voter registration procedures into effect January 1, 2006.

For Mendocino County, Federal and State election regulations are administered by the County Clerk/Assessor/Registrar of Voters. This position is responsible for the supervision of three departments:

- Elections handling voter registration and elections;
- Recorder responsible for issuance of licenses (e.g. marriage), passport applications and maintenance of records (birth, death, marriage, deeds, etc.);
- Assessor responsible for property tax valuation.

All three departments share office space at the County administration building in Ukiah.

In December 2007, Mendocino County had an estimated 62,300 residents who were eligible to register to vote. Of those eligible 74% actually registered. The tightened registration requirements since 2006 and the more thorough updating

procedures have cut the number of registered voters by about 4,000. In the 2004 general election almost 50,000 voters were registered. That number went down to about 48,000 in 2006. In the 2008 presidential primary, the voter list stood at 46,102.

Currently in Mendocino County 34,074 or 74% of all registered voters and 201 out of 235 precincts are designated as Vote-by-Mail. This is consistent with the statewide trend to Vote-by-Mail especially in rural counties. The counties of Alpine and Sierra have switched 100 percent of their voters to mail-in ballots. The state of Oregon has been using only mail-in ballots since 1998.

## **Findings**

### **Who Can Vote?**

1. Any United States citizen, who is a resident of California, at least 18 years of age and not in prison or on parole for conviction of a felony, may register to vote. A registered voter, also known as an elector, must be a resident of an election precinct at least 15 days prior to an election in order to vote in a given precinct. (Elections Code EC §321)
2. Under the Elections Code, residence for voting purposes means a person's domicile. The statute explains that 'domicile' means:

“...that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.” EC§349

3. If a person has more than one residence, the person must choose which will be the designated domicile.

“If a party has two residences, that will be esteemed his domicile which he himself selects or deems to be his home, or which appears to be the center of his affairs.” *Chambers v. Hathaway* (1921) 187 Cal. 104, 105

4. Election Code §2031 sets up two rebuttable presumptions in determining domicile: your domicile is where you have a homeowner's exemption and the principal address on your driver's license. However, a domicile need not be an ordinary living space, but must have a fixed location. It could be a street corner, a boat, a truck, or under a bridge; homeless people do not lose their citizenship rights.
5. A person may register by mail. Registration forms are available at county libraries, post offices, city halls, offices of Department of Motor Vehicles (DMV), Department of Social Services, and on the internet at Secretary of State's website. There is also a Federal form available that is accepted by all states.
6. Since January 1, 2006, as required by HAVA, the Registrar validates new registrations by running the registrant's information through a statewide

database. Registrations prior to January 1, 2006 are not checked through the database so long as they continue to vote in general elections.

7. After you register, your identity and current domicile address will be confirmed and the information entered into the statewide voter database. To verify identity you must supply a driver's license/California ID number or the last four digits of your Social Security number. If you do not have the above, you will be issued a unique voter identification number by the State valid only for voting. If your documents do not have your current domicile address, you may be required to provide additional proof of residency such as a homeowner's tax exemption or file a sworn affidavit.
8. Since January 1, 2006 there is also an ongoing updating of records for all voters. The Registrar's Office gets notice from:
  - DMV if voter submits change of address;
  - Registrars if voter registers elsewhere in California;
  - County Public Health Dept and State Health and Human Services of deaths;
  - Post Office if sample or absentee ballots are returned undeliverable.
9. All of these notices are run against the voter registration lists to keep them current.
10. The Registrar's Office under certain circumstances will either cancel or inactivate a registration:
  - If a voter notifies the Registrar that they are moving out of county, the Mendocino County registration is cancelled.
  - If the Registrar receives notice of new registration in another county or out of state, this County's registration is cancelled.
  - If the Registrar receives indirect notice from another agency that voter moved, the registration will be inactivated.
  - If the voter remains inactive for two (2) federal general elections, the registration will be cancelled.
11. At the time of registration, voters may specify a political party affiliation or decline to state any affiliation. In the 2008 presidential primary, voters who had not registered with one of the six qualified parties (Democratic, Republican, American Independent, Green, Libertarian, Peace and Freedom) were allowed to request a ballot to vote in the party primary of either the Democratic Party or American Independent Party, as those two parties had rules allowing party affiliation on Election Day. Otherwise, unaffiliated voters could vote only on the State ballot propositions.

## **Who Can Hold Office?**

12. **Elected Offices:** A candidate's application must state their residence address, which is verified through the county clerk's office as their domicile. A candidate must be a registered voter in the district for which they are running. In some cases, there is a residency requirement greater than the 15-day minimum to register in a given precinct. For example, a candidate for County Supervisor must reside in the precinct for 30 days prior to filing the application for candidacy.
13. There are candidate filing requirements aside from residency specific to each office. The Registrar's office prepares a candidate's handbook for each election with all of the requirements.
14. **Appointed Offices:** The appointing power determines the requirements for office. Generally, appointed officeholders with discretionary authority must be residents of the district in which they serve. Residency requirements are less common for appointees who serve only in a consulting or advisory capacity.
15. If, after election or appointment, an official moves their domicile out of the representation area, Government Code §1770 specifies that the office shall be considered vacant.
16. In the case of elected school officials, Education Code §5091(a) provides that whenever a vacancy occurs whether by resignation, or by the official leaving the district, the district's governing board must within 60 days of the vacancy order an election or make a provisional appointment to fill the vacancy.

## **Voting: Who, Where, When, and How**

17. **Vote-by-Mail:** Historically Absentee Ballots were reserved for voters who were unable to get to their precinct polling place on Election Day. In 2007, AB1243 officially changed the name "Absentee Ballot" to "Vote-by-Mail Ballot." Increasingly, voters are encouraged to vote by mail rather than in person.
18. While any registered voter may Vote-by-Mail in California, in many precincts they are required to do so:
  - If a polling place has less than 250 or more than 1000 registered voters, the voters are automatically put on the Vote-by-Mail list.
  - If a precinct's polling place cannot accommodate disabled voters, the precinct will either be consolidated with a nearby precinct that is accessible to the disabled or switched to Vote-by-Mail.
  - Shortage of trained precinct poll workers may also cause a precinct to be switched to Vote-by-Mail.
19. In the 2008 presidential primary election, 201 of Mendocino County's 235 precincts were Vote-by-Mail.
20. To vote by mail, you must apply to your county elections office for a Vote-by-Mail Ballot at least seven days before Election Day. You can use the form on the Sample Ballot booklet you receive in the mail or send your request in

writing to your county elections office. If you reside in a designated Vote-by-Mail precinct you automatically receive your ballot by mail.

21. Currently in Mendocino County 34,074 of 46,102 (74%) of the registered voters are Vote-by-Mail. This is consistent with the statewide trend to Vote-by-Mail especially in rural counties. The counties of Alpine and Sierra in California, have switched 100 percent of their voters to mail-in ballots. The state of Oregon has been using only mail-in ballots since 1998.
22. After processing your Vote-by-Mail application, the proper ballot type will be sent to you. You mark your choices on the ballot, put it into the official envelope provided and seal it. Place the proper postage on the envelope and sign the outside of the envelope where directed.
23. You may return the Vote-by-Mail ballot by:
  - mailing through U.S. Postal Service to the Mendocino County Elections office;
  - delivering in person to elections office within your county; or on election day to any polling place.
  - authorizing an allowable third party to deliver the ballot to any polling place within the County or to the County Elections Office. The authorized third party may be your spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as you. Your authorization must be in writing and signed by you.
24. **Voting in Person:** Upon entry to the polling place, the voter's name is checked against the precinct's rolls and the voter signs the list.
25. If the voter requires assistance, EC §14282(a) requires that the voter may, upon arrival at a polling place, make a sworn statement that they are unable to mark the ballot without assistance. Election officials will then allow the voter to designate up to two persons to assist them in voting. The designated assistants may not be the voter's employer or agent of the employer nor an officer or agent of the union of which the voter is a member.
26. If the polling place is inaccessible to a physically handicapped voter, EC §14282(c) provides that, the voter may vote in an accessible location as near as possible to the polling place. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place.
27. Mendocino County still uses paper ballots. Electronic machines are available for use by disabled voters or others upon request. Every polling place has a voting machine.
28. On Election Day, if the voter is in line before the polls close, they have the right to cast their ballot.
29. The voter who makes a mistake or spoils their ballot, has the right prior to casting the ballot to exchange the spoiled ballot for a new one.
30. If voter's name does not appear on the voting rolls, the voter has the right to cast a provisional ballot.

31. When a voter checks in at the polling place to cast their ballot, a poll worker may challenge the voter's eligibility. Only a poll worker can make the challenge--not a poll watcher or voter.
32. If challenged, the voter will be allowed to cast their ballot, but the challenge will be noted on the roll, the voter given a provisional ballot which will be placed in a sealed, signed provisional ballot envelope for later review by the Registrar.
33. Suspected illegal or fraudulent activity may be reported to any local elections official or to the Secretary of State's Office.

### ***Does Every Vote Count?***

34. ***Processing Mail-In Votes:*** When a completed Vote-by-Mail ballot is received in the County Elections Office, it is date stamped and scanned in using the bar code on the return envelope. The signature on the Vote-by-Mail ballot's return envelope will be compared to the signature on the voter registration card to determine that it was completed by the authorized voter. To preserve the secrecy of the ballot, after signature has been verified, the ballot is separated from the envelope so that the ballot becomes anonymous.
35. The verification process is labor intensive and requires ample space for the election workers and the voting materials. Each step of the verification process is conducted by two employees of the Registrar's office. At election time, the Registrar borrows County employees from other departments and hires temporary help on an hourly basis to help process ballots.
36. While Mendocino County has sufficient staff to process mail-in ballots, the workspace is cramped and the secured storage space is limited.
37. Avoidable reasons for disqualification of a Vote-by-Mail ballot:
  - No Signature: Vote-by-mail ballots that do not have a valid signature on the return envelope are not counted.
  - Wrong Signature: The signature on the return envelope of vote-by-mail ballots is compared with the signature on file. If the signatures do not match, the ballot will not be counted. If a voter's signature has changed, the voter may request a new registration form to update their signature. Such update must be completed by the registration deadline for the election.
  - Delivery without Authorization: If the voter wishes to designate an allowable third party to return the voter's completed ballot on Election Day, the voter must designate the third party in writing and sign the authorization on the return envelope. Eligible designees are: spouse, child, parent, grandparent, grandchild, brother, sister or person residing in the same household as the voter. Without the proper authorization, the ballot will not be counted.
  - Delivery after Deadline: Any vote-by-mail ballot, whether submitted by mail or in person, that is received by the elections office or polling place within the county after 8 PM on Election Day will not be counted.
38. If a mail-in ballot is rejected because of no signature or signature that doesn't match the registration, the registered voter is notified by letter and may

- request a new ballot at least seven days prior to election. The rejected ballot is not opened, but put into a tray which is color coded by precinct.
39. Valid ballots are also sorted into trays by precinct. The trays are put into locked storage to await processing through the counting machine. The availability of secure storage for election materials is limited. Counting of mail-in ballots may begin seven days prior to Election Day.
40. Registered voters may go on-line to the County Registrar's website prior to Election Day to check whether their Vote-by-Mail ballot has been received.
41. In Mendocino County's 2008 presidential primary, nearly 18% percent of Vote-by-Mail voters waited until Election Day to turn their ballots in at polling places. Because of the verification process required on mail-in ballots, those received on Election Day are set aside for later processing to allow the tallying of ballots coming in from the precincts.
42. **Processing on Election Day:** After the polls close on Election Day, the Registrar's Office sends out teams to pick up the ballots and voting machines from each polling place within the County. Some polling places cover more than one precinct. Upon arrival at the Registrar's Office the ballots and electronic machines are checked in, verifying that all ballots issued are accounted for as having been voted, damaged or unused. The voted ballots are grouped by precinct and scanned. The scanning process creates a paper tape record and an electronic record. Any un-scannable ballots are set aside to be processed by hand by at least two election officials. The entire counting process takes place in a secure room with large plate glass windows through which members of the press and the general public may observe. The counting room is crowded with machines, election workers and stacks of ballot boxes.
43. After the in-person votes have been tallied, the Elections Office returns to the mail-in votes that remain to be counted. In the 2008 presidential primary, 4,023 of 22,508 (almost one-fifth of the total) mail-in votes were submitted on Election Day.
44. **Processing of Provisional Ballots:** Once the mail-in votes have been processed, the Registrar turns to the provisional ballots. Provisional ballots are issued whenever a voter:
- is not on the rolls,
  - is not at their designated polling place,
  - is not able to establish their identity.
45. In the 2008 presidential primary, the Elections Office received 607 provisional ballots, which had to be processed manually. Of those received, 52 were rejected after review by the Registrar. As in the case of Vote-by-Mail ballots, the voter signature on the provisional ballot envelope is checked against the Registrar's database to verify the identity and eligibility of the voter before the ballot is opened and counted.
46. **Certification of the Election Results:** The Registrar has a total of 28 days to complete the canvas of all ballots whether cast in person, by mail, or on a

provisional ballot. The certified results are filed with the Secretary of State and are published.

47. The Registrar's Office is required to secure and retain all voted ballots for a period of 22 months after a general election, for six months after a local election. The security and retention requirements imposed by the Secretary of State severely reduce the workspace available for the other activities of the Registrar's Office.
48. **Enforcement Protections against Fraud:** When registering to vote or when filing to be a candidate for office, the party declares under penalty of perjury that the information on the application is true. The Registrar's office will turn suspected cases of fraud over to the Sheriff, District Attorney's office, or any other affected agency. The Registrar is not the enforcing authority.
49. A private citizen may report suspected illegal or fraudulent activity to any local elections official or to the Secretary of State's Office and may also pursue it through civil court.

### ***Recommendation***

The Grand Jury recommends that the County locate additional space for use by the Registrar's Office during election season allowing election workers to process and secure voting materials and the public to observe the process. (Findings 35, 36, 39, 42, 47)

### ***Comments***

During election season, the Registrar's Office is a beehive of activity. Through the large plate glass windows, voters, eagerly awaiting election results, can watch the ballots being processed: checked and double-checked, tallied and re-tallied. The open windows epitomize transparency in government. The careful, competent handling of our votes by all the employees allays concern about the voting process and instills trust in the democratic process.

### ***Required Responses***

Susan M. Ranochak, Mendocino County Registrar of Voters (All Findings, All Recommendations)

Tom Mitchell, CEO Mendocino County (Findings 35, 36, 39, 42, 47; All Recommendations)



## The Grand Jury Report Process

The role of the Mendocino County Civil Grand Jury is to oversee and shed light on local and County government. Jurors conduct oversight inquiries and investigate matters of public interest. Any individual can file a complaint with the Grand Jury using forms available online at [www.co.mendocino.ca.us/grandjury](http://www.co.mendocino.ca.us/grandjury).

A Grand Jury inquiry begins when a topic is approved by a minimum of 12 of the 19 seated Jurors. A committee then undertakes extensive research and drafts the report.

Findings are verified against documents and interview notes and are reviewed for accuracy with key individuals in the agency of interest. The draft is then reviewed by an internal Edit committee and must receive approval by the Full Panel. It is then sent to County Counsel and to the Presiding Judge for final review before public release.

## Members of the 2007/2008 Grand Jury

Bob Coppock  
Brad Hunter  
Kathy Johnson  
Nancy Kleiber  
Lois Lockart  
Chas Moser  
George Pacheco  
Lillian Pacini  
Carolyn Pavlovic  
Barbara Reed  
Wendy Roberts  
James Schweig  
Dennis Scoles  
Bill Stambaugh  
Sherry Stambaugh  
Finley Williams

### Partial Year

Thomas Clay, Al Pierce, Brent Rusert, Pamela Shilling, Thelma Thompson



*The cover photo for this report was taken at Point Cabrillo Light Station Historic Park by Donald F. Roberts. This report was produced with the generous assistance of Tony and Maureen Eppstein. Information on Point Cabrillo State Historic Park and the Lighthouse Inn is available at [www.pointcabrillo.org](http://www.pointcabrillo.org)*