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CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

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March 22, 2013

Assembly Member Jim Patterson, Author
PO Box 942849
Sacramento, CA 94249-0023

Dear Assembly Member Patterson:

The California Association of Clerks and Election Officials Elections Legislative Committee has reviewed **AB 472** (as introduced February 19, 2013), that would extend the timeframe for the receipt of voted ballots for military and overseas voters for up to 10-days after the Election. The Committee appreciates the additional options for military and overseas voters to return their ballots, but has voted to take an **Oppose unless Amended** to include the following:

- Shorten timeframe for receipt of ballot. The Committee feels that allowing 10-days is too long. The goals of this proposal can still be accomplished should the time be reduced to 3-days. Data from recent elections shows the majority of late returns were received by the first Friday following the election, or within 3-days of the Election.
- Extend the canvass of the vote. Medium and large sized counties already struggle meeting the 28-day canvass during a high return statewide general election. Additionally, provisional ballots cannot be processed until all vote by mail ballots are received and canvassed, therefore, delaying the processing of those ballots as well. Extending the canvass of the vote a few days beyond 28-days will enable counties the time they need to validate and process returns while allowing adequate time for statewide results to be certified and officers sworn in.
- Expand services to allow emailed returns. For years, military and overseas voters called to duty that had difficulty and/or limited time to request and return their voted ballot had the option to do so by facsimile transmission, as long as they waived their right to a secret ballot. This has been applied with great success. More recently, the option to receive a blank ballot from the county election official by email transmission has been granted to the same voters. We would like to expand this option and allow a military or overseas voter to return their voted ballot by email transmission, using the same procedures as used currently with facsimile transmission. Since the inception of email transmission of voting materials, county election officials have seen an increase in military and overseas voters who attempt to return their voted ballot via email. Facsimile transmissions have proven slightly cumbersome when the image of the faxed ballot or voter waiver is "cut off" by the fax machine, or comes through blank. This difficulty may decline with email transmission. We believe this option will enfranchise even more military and overseas voters in the future, especially those in the field and without access to a fax machine.
- Include a definition for "timely cast". This new term appears in subsection (d) of Section 3106 and Section 3117. It is important to understand the intention of the inclusion of this term as it relates to ballots received by facsimile transmission. More of a concern is the ability for a voter to wait until after results have been released to vote and return their ballot. The risk to voter fraud in small, local elections with very close

results may be too great. It must be abundantly clear that the extension of the receipt of the voted ballot applies only to those received via the USPS or Military Postal Service Agency.

- Include a provision for illegible or lack of post mark. This is extremely important and relates directly to the ability to determine if the ballot was voted *prior* to the close of polls and can be counted. There must be clear evidence that the ballot was voted no later than 8:00 p.m., PST on election night as the law requires of all voters. Election officials must be able to point to concrete language to make this determination and to avoid the potential challenge that ballots may have been unlawfully voted and cast after the close of polls.

We appreciate your efforts to extend services to military and overseas voters, more particularly in circumstances where there is an opportunity to enfranchise voters. We believe the above amendments are key to the ability to successfully administer vote by mail voting and the consideration of counting ballots received after the close of polls and release of election results.

If you or your staff have any questions, please do not hesitate to contact me at the Monterey County Elections Department, at (831) 796-1499.

Very truly yours,



Linda Tulett
Correspondence Secretary
California Association of Clerks and Election Officials

- c: Honorable Paul Fong, Chair, Assembly Committee on Elections and Redistricting
Honorable Lou Correa, Chair, Senate Committee on Elections and Constitutional Amendments
Jill Lavine, Co-Chair, CACEO Elections Legislative Committee
Karen Rhea, Co-Chair, CACEO Elections Legislative Committee
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