

OFFICERS 2010-2012

GAIL L. PELLERIN
PRESIDENT
Santa Cruz County

CATHY DARLING ALLEN
VICE PRESIDENT
Shasta County

NEAL KELLEY
TREASURER
Orange County

DEAN LOGAN
SECRETARY
Los Angeles County



CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

GAIL L. PELLERIN, PRESIDENT

Santa Cruz County Clerk
701 Ocean St., Room 210, CA 95060
831-454-2419 * Fax 831-454-2445 * Cell 408-316-9745
E-Mail: gail.pellerin@co.santa-cruz.ca.us
Website: www.caceo58.org

BOARD OF DIRECTORS

APPOINTED:

GINA ALCOMENDRAS
Santa Clara County

JANICE ATKINSON
Sonoma County

TESS FITZGERALD
Santa Cruz County

SACHI HAMAI
Los Angeles County

JOSEPH HOLLAND
Santa Barbara County

JIM MC CAULEY
Placer County

KATHIE MORAN
Colusa County

SUSAN M. RANOCHAK
Mendocino County

JULIE RODEWALD
San Luis Obispo County

DEBORAH SEILER
San Diego County

DAWN ABRAHAMSON*
Fremont City Clerk
* non-voting member

ADVISORY COUNCIL:

STEVE WEIR
Contra Costa County

REBECCA MARTINEZ
Madera County

ELECTED AREA CHAIRS:

JULIE BUSTAMANTE
Northern Area
Lassen County

KARI VERJIL
Southern Area
Riverside County

JILL LAVINE
Mother Lode Area
Sacramento County

AUSTIN G. ERDMAN
Central Area
San Joaquin County

LINDSEY MC WILLIAMS
Bay Area
Solano County

LEGISLATIVE COMMITTEES

CLERK OF THE BOARD:

SACHI A. HAMAI
Los Angeles County

JOHN MCKIBBEN
Los Angeles County

COUNTY CLERK:

KATHIE MORAN
Colusa County

VICKI PETERSEN
Sonoma County

ELECTIONS:

JILL LAVINE
Sacramento County

DEBORAH SEILER
San Diego County

August 12, 2011

Mr. Ethan Jones, Chief Consultant
Assembly Elections and Redistricting Committee
State Capitol, Rm. 365
Sacramento, CA 95814

Dear Mr. Jones,

The California Association of Clerks and Election Officials (CACEO) appreciates the opportunity to review and comment on the proposed amendments to the statutes enacted by SB 6, in regard to the implementation of the "Top Two" Primary Election.

As you know, CACEO worked closely with the Secretary of State's Office in drafting suggested changes to the current law, to ensure the needs of election officials were included. After receiving the proposed amendments you sent, we did an in-depth comparison of the two proposals. We have discussed the differences with the Secretary of State's elections staff, and recognize that we, as election administrators, may view these changes in a different light than the Secretary of State.

CACEO considers its role, in reviewing the proposed amendments and providing feedback, to be limited to the impact of the amendments on our ability to conduct elections. Those matters which are policy in nature are not of our purview. That being said, there is serious concern that some of the policy issues might prompt a court challenge. While in and of themselves, the policy changes do not have a bearing on our ability to conduct elections, the indirect effect of a court challenge would severely impact our ability to conduct the 2012 Primary election. Specifically, the issues we have identified include: the changes of terminology from "preference" to "affiliate;" the change in the interpretation of "top two vote getters," leading to a modification of practice in regard to tie votes; and the leaning away from "voter-nominated" to "party-nominated" in the filling of vacancies between primary and general elections.

The following are the issues we have identified as having a direct impact on election officials' ability to administer elections:

8025 – We need clarification as to this section. If we are correct in our assumption of the intent of this section (that if the sole candidate affiliated with a political party dies after the close of nominations for the primary election, but before e-83, another person *of that political party* may file up until e-74), the current wording does not accomplish the intent. Under the current wording, nominations would be opened up for any candidate of any political party affiliation. The language needs to be reworked, unless this was in fact the intent of the section.

8068 – Our concern with this section is the same as what previously was the case with the “Open/Blanket” Primary, which is that voters must be affiliated with the candidate’s political party to sign nomination documents, but any voter may sign petitions in lieu of filing fees. This is confusing for election officials, candidates and voters, and leads to errors in candidates attempting to qualify and in certifying candidates for the ballot.

8606 – While other sections clarify that write-in candidates are not allowed, and that no spaces for write-in candidates are to be printed on the ballot for voter-nominated offices in the general election, this section infers that the spaces are printed, and that the elections official is not to count the votes for a person whose name has been written in for a voter-nominated office. Striking the last sentence would clarify the section.

8806 – We touched on this briefly with our general concern that the movement away from “voter-nominated” and towards “party-nominated” could provoke a court challenge; however, our greater concern with this section is that there is a very vague procedure and no timeline set out for these vacancies to be filled (e.g. “if a vacancy occurs...” occurs by when? Who notifies the central committee or committees, and by when? By when must they meet, to whom do they report their nominee, what is the deadline for reporting? What if they don’t select a replacement?). Without clarification, this section would be disastrous in such a situation.

13207 – For clarification, it would be helpful if (a)(2) were amended to state that blank spaces for write-ins are not required for voter-nominated offices in a general election. That language does appear in 13212, but without the clarification, these sections appear to be contradictory, and section 8606 adds to the confusion.

13302 – This section creates significant problems for elections officials. Having to list the endorsees of the political parties would require least one full page in the voter pamphlet – more, if a county has numerous legislative districts and a generic page is produced. This is a cost that is unreimbursed by the state. The page would have to be translated into required languages creating additional costs. This would result in a partisan political advertisement at the expense of taxpayers. And, while cognizant of the reasoning behind the change in the deadline from 83 to 68 days before the election, the change impacts the ability of counties to produce voter-information pamphlets in a timely manner, delaying printing, production and distribution.

13305 – This section must be double-joined with SB 441. Election officials are allowed to combine Sample Ballots pursuant to 13300.5, which make contributor envelopes or other inserts simply not “do-able.”

15671 – This section is in direct conflict with section 15670 and is unnecessary, as tie votes in voter-nominated offices are covered in section 8142.

Again, thank you for allowing us to review and comment on these proposed changes. If you have any questions or concerns, please do not hesitate to contact me or Janice Atkinson, Chair of the Special Committee on the Top Two Primary, at 707-565-1876.

Very truly yours,



Gail Pellerin, President
California Association of
Clerks and Election Officials