CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

Legislative Committee Meeting

Minutes

April 25, 2014

Sacramento, California

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| Attendees: | County | Attendees: | County |

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| --- | --- | --- | --- |
| Randi Johl | CCAC Legislative Director | Barry Brokaw | Sacramento, Advocates, Inc |
| Scott Konopasek | Contra Costa | Michael Vu | San Diego |
| Karen Rhea | Kern | Philip Chantri | Santa Clara |
| Tim McNamara | Los Angeles | Tricia Webber | Santa Cruz |
| Gregory Diaz | Nevada | Bart Broome | Secretary of State |
| Rebecca Spencer | Riverside | Jana Lean | Secretary of State |
| Alice Jarboe | Sacramento | John Gardner | Solano |
| Roberta Kanelos | Sacramento | Gloria Colter | Sonoma |

Karen Rhea convened the meeting at 9 a.m. Introductions were made.

**Minutes from March 28, 2014**

Motion by Philip Chantri to approve March 28, 2014 minutes with amendments to title of AB 2394 and AB 2715. Tricia Webber seconds motion. Motion carried.

# *Legislation*

AB 1440 (Campos) Elections: district boundaries: public hearing

Position: Watch

Existing law requires county boards of supervisors and the councils of general law and charter cities that elect members by or from districts following each decennial federal census, and using that census as a basis, to adjust the boundaries of the supervisorial and council districts, as specified. Existing law requires a county board of supervisors or a city council of a general law city or the governing body of a charter city to hold at least one public hearing on any proposal to adjust the boundaries of a districtprior to a public hearing at which the board or council votes to approve or defeat the proposal.

This bill would also require the governing body of a district to hold at least one public hearing on a proposal toadjust the boundaries of a division prior to a public hearing at which thegoverning body of the district votes to approve or defeat the proposal. The bill would require a political subdivision that changes from an at-large method of election to a district-based election, as defined, to hold at least 2 public hearings on a proposal to establish the district boundaries of the political subdivision prior to a public hearing at which the governing body of the political subdivision votes to approve or defeat the proposal.

Latest amendment has a minor technical change adjustment of boundary proposals from “district” to “division”.

Discussion: CACEO will continue to watch this bill.

AB 1817 (Gomez) Voter registration: deputy registrars of voters: high school students

Position: Watch

Discussion: This bill would permit the governing board of a school district to authorize a high school pupil 16 years of age or older to become a deputy registrar of voters and to registrar to vote qualified pupils on his or her high school campus.

We have generally have been in favor of the idea behind the bill but have had the following feedback:

* How could we ensure that the registration activities only occurred on campus?
* It appears that there is nothing in current law that does not allow high school students to act as deputy registrars; would the bill’s language prohibit those under 16 from acting as deputy registrars; perhaps this would allow the school board to narrow activity as they see appropriate.
* This may help better track the location of voter registration forms by specifically attributing to specific locations.

Dean Logan has reviewed the bill with the author’s office regarding intent of the bill and the possibility of amending it such that high school students can register off campus and allowing persons under 16 to act as deputy registrars.

CACEO will continue to watch.

AB 1836 (Jones) Vote by mail ballots

Position: Oppose

Discussion: This bill failed passage in committee. It would have required the elections official to provide each polling place with a blank roster for recording specified information from persons returning a vote by mail ballot, including the name and residence address of the person authorized by the voter to return the voter’s vote by mail ballot. This bill would also have required that the identification envelope contain the address of the person authorized by the voter to return the vote by mail ballot. It would also have required a person returning a ballot to provide identification and specific, complex actions by pollworkers if no identification was provided.

AB 1861 (Harkey. Committee on Budget.) Budget Act of 2013

Position: Support on specific provisions

Discussion: This bill would amend the Budget Act of 2013 by removing voter identification procedures from the list of suspended state-mandated local programs. The bill would appropriate $7,553,000 from the General Fund to pay for mandate claims for Voter Identification Procedures, as specified.

Attendees discussed various efforts by CACEO to restore mandate reimbursements including activities by Alice Jarboe from Sacramento County, Kim Alexander from the California Voting Foundation, and Geoff Neil from CSAC.

The discussion specific to AB 1861 related to a provision that restores funding for comparing the signature on provisional ballot envelopes with the signature on the voter’s affidavit of registration. Attendees are in favor of the bill but determined any support of the bill should reference the specific section that restored the election mandate. (Other non-election mandates are addressed in the bill.)

Motion to support AB 1861’s inclusion of section 1.5 into Budget Item 8885-295-0001 by Alice Jarboe. Tricia Webber seconds motion. Motion carries.

Also discussed was election mandate funding restoration in general. Attendees proposed that a letter supporting restoration of all suspended election mandates be sent to the Legislature and Governor.

Motion to send letter recommending restoring all suspended election mandates to Governor/Legislature by Alice Jarboe and Greg Diaz.

Both letters should be sent as soon as possible in anticipation any upcoming committee activities/budget revisions (May revise).

AB 1873 (Gonzalez and Mullin) Mail ballot elections and AB 2028 (Mullin) All mailed-ballot elections: counties

Position: AB 1873 Support if amended/AB 2028 Support if amended

AB 1873 would generally authorize a board of supervisors of a county to conduct a special election or special consolidated election to fill a congressional or legislative vacancy wholly by mail under specified conditions.

This bill is being sponsored by San Diego County. At previous meetings, Michael Vu gave general background including that the bill allows special vacancy elections to be conducted by mail and discussed suggested amendments. Not all of our suggested amendments are in latest version. Mr. Brokaw suggested that we wait to see if the bill advances to the Senate then reintroduce our concerns and amendment suggestions.

AB 2028’s initial theme has been combined with AB 1873 and Assembly Member Mullin has joined as author of AB 1873. AB 2028 will most likely be amended to be a bill that allows San Mateo County to pilot vote by mail elections similar to what Yolo County has been allowed to do in the past. We will discuss this amendment when it is in print.

AB 2003 (Fong) Ballot materials: translations

Position: No Position – Bill has been pulled per CACEO request.

Discussion: This bill would address challenges with obtaining appropriate translators for election materials. It is in response to CACEO Proposal 14-02 which was written by John Tuteur of Napa County. Mr. Tuteur had this bill pulled since it only addressed Spanish translations. Mr. Vu will work with Mr. Tuteur on amendment proposals.

AB 2093 (Grove) Petitions: filings

Position: Support

Discussion: This bill would specify that, if the final day to file an initiative or referendum petition falls on a holiday, as defined, the petition may be filed with the county elections official on the next business day.

Motion by Scott Konopasek to support if amended to ensure that - if the final date for filing a petition falls on a weekend day - then the petition may be filed on the next business day. Austin Erdman seconds motion. Motion carries.

AB 2233 (Donnely) Petitions: filings

Position: No Position

Discussion: This bill would require the elections official to reduce the number of signatures required on a petition in lieu of a filing fee for a special election that is held to fill a vacancy by the same proportion as the reduction in time for the candidate to collect signatures if the number of days for a candidate to collect the signatures is less than the number of days that a candidate would have to collect signatures on a petition at a regular election for the same office.

No Position.

AB 2550 (Hernandez) Election dates

Position: No Position

Discussion: This bill would eliminate the established election dates in March and April, and would modify the established election date in June to each even-numbered year instead of each year. The bill would provide that these provisions may not be construed to shorten the term of office of any officeholder, as specified, or as altering the date of a runoff election provided for in the principal act of a district.

The author’s intent is to lower costs of elections and raise voter turnout.

City Clerks Association and League of Cities oppose this bill based on concerns like:

* Some city charters are based on odd year elections
* City contests would be too far down on the ballot.

No position; will bring back to a future meeting for further discussion.

AB 2551 (Wilk) Early voting

Position: No Position

Discussion: Existing law requires all bond issues proposed by a county, city and county, city, district, or other political subdivision, or by any agency, department, or board thereof, to be submitted to the voters for approval. Existing law requires all official materials for the bond issue proposal to contain a statement of specified tax rate data. This bill would require the statement to include the best estimate from official sources of the total debt service that would be required to be repaid if all the bonds are issued and sold.

Nichole Becker (Principal Consultant, Assembly Elections and Redistricting Committee) has asked CACEO for cost impacts related to this bill. Hearing is May 6. (Attendees expect costs to be minimal.)

AB 2631 (Dababneh) Elections: voting machines

Position: None

Discussion: This bill as originally introduced would modify and update the definition of “voting machine” to mean any electronic device into which a voter may enter his or her votes, and which, by means of electronic tabulation and generation of specified printouts and records, furnishes a total of the number of votes cast for each candidate or measure. The bill would make conforming changes and repeal obsolete provisions of existing law. It would also modify and repeal certain precinct board requirements and procedures relating to the reading, posting, and inspection of the statement of return of votes cast for the precinct.

This bill is sponsored by the Secretary of State.

Attendees had a number of concerns/comments about the original version of the bill:

* Why does this bill require three copies of results when the current certification process requires two?
* Why does the bill address overvotes and undervotes?
* Some provisions of this bill may potentially be in conflict with the implementation of SB 360. Why not wait until the implementation of SB 360 is more clear to introduce a bill like this?
* Why is the bill just “clean up” and not more reflective of current certification practices?
* The bill refers to permanent records when certain records can be destroyed within 22 months.
* Why was there no dialog by the SOS with county election officials before the bill went into print? Would the SOS be willing to hold off on moving the bill until there is more dialog.

The bill was amended on April 9 in order to address some of these concerns. The amendments included an alteration to the definition of “voting machine” and substituted references to “voting system with “direct recording electronic voting system”.

There continues to be concerns related to posting requirements and definitions.

Mr. Broom will work with Mr. Vu, Mr. Konopasek, and Mr. Chantri to address these concerns.

SB 2715 (Roger Hernandez) District-based municipal elections

Position: Watch

Discussion: This bill would require the members of the legislative body of a city with a population of 100,000 or more, as determined by the most recent federal decennial census, to be elected by district. This bill would require the legislative body to provide by ordinance, without submitting the ordinance to the electors of the city for approval, for the election of the members in this manner. This bill would require that the boundary lines of each district be adjusted in accordance with specified provisions of law.

The California League of Cities opposes based on cost; it states that the California Voting Rights Act already provides for implementation of district elections.

There was a concern voiced about the implementation date of July 1, 2015. Could all voting systems accommodate this start date?

CACEO will watch.

SB 1061 (Block) Elections: voter registration

Position: None

Discussion: This bill – generally - would automatically register someone to vote when they perform specific transactions at the Department of Motor Vehicles.

The Secretary of State is concerned about the - potentially - very significant cost of the bill. The latest version of the bill no longer requires that all voters be NPP who become registered in the manner prescribed by the bill. In past meetings, attendees felt that the bill deserved substantial consideration. They felt that over time it would save money; DMV has citizenship data and this may assist with Conditional Voter Registration. Maybe HAVA funds can be used to help with the large upfront costs.

CACEO will see if the bill gets out of the Appropriations Committee; if it does there will be further discussion.

SB 1062 (Block) Elections: vote by mail ballots

Position: Watch

This bill would require all vote by mail ballots be postage paid by counties.

CSAC supports this bill if the bill is amended to specifically provide for reimbursement for postage from the state and that reimbursement is – preferably – done up front. (Perhaps we could use a state postage account like we do with Voter Registration Cards.)

Attendees have – in a past meeting - discussed the following:

* Concerns about using Business Reply Mail (BRM); it delays mail since it is labor intensive for the post office; it adds one to two days for delivery time.
* There could be waste if postage was pre-paid and not used.
* A cost analysis is needed; Kammi Foote will assist with this.

The bill was amended on March 24 such that counties would not pay for returned postage on ballots that are mailed from outside the U.S.

Continue to watch.

SB 1063 (Block) Voting rights guide: incarcerated persons

Position: Watch

Discussion: This bill would require state and local juvenile detention facilities to identify individuals housed in those facilities who are of age to register to vote, to assist those individuals in determining their eligibility for registration, to provide voter registration cards to eligible voters, and to transmit the completed voter registration cards to the county elections official.

CACEO will watch this bill.

SB 1365 (Padilla) California Voting Rights Act of 2001

Position: Watch

Discussion: This bill would prohibit the use of a district-based election in a political subdivision if it would impair the ability of a protected class, as defined, to elect candidates of its choice or otherwise influence the outcome of an election. The bill would require a court to implement specified remedies upon a finding that a district-based election was imposed or applied in a manner that impaired the ability of a protected class to elect candidates of its choice or otherwise influence the outcome of an election.

Discussion: CACEO will continue to watch.

Note: There are several lawsuits pending related to the subject of this bill.

SB 1455 (DeSaulnier) California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2016.

Position: Watch

Discussion: This bill would enact the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2016, for submission to the voters at the 2016 statewide general election.

Mr. Broome brought this bill to the attendees’ attention since there are very prescriptive ballot layout provisions in the bill that are not in alignment with most – if not all – county ballot layout programs. (See Section 3 of the bill.)

Mr. Konopasek will speak to the author’s office about our concerns related to prescriptive ballot layout language in the bill.

SCA 16 (Steinberg) Members of the Legislature: vacancy

Position: Watch

Discussion: The California Constitution requires the Governor to call an election to fill a vacancy occurring in either house of the Legislature. This measure would instead require the Governor to fill a vacancy in either house of the Legislature by appointment within 21 days of the date of the vacancy, and would require that the appointee, at the time of the appointment and during the 12-month period immediately preceding the appointment, have the same political party preference as the vacating Member had when he or she was last elected to the Legislature. The measure would allow the house to which the appointment is made to reject the appointment, by a majority vote, within 21 days of the appointment, in which case the Governor would be required to make another appointment. If an appointment is not rejected, the appointee would be eligible to take office the day after the end of the 21-day period and would serve for the remainder of the term of the vacating Member, except as specified.

CACEO does not take positions on constitutional amendments. However, the author’s office would like the Association’s input and may come to a future meeting to seek feedback.

The Secretary of State has no position on this bill.

CACEO will continue to watch this bill.

**Voters with Specific Needs Subcommittee (VWSN)**

* Discussed Los Angeles County’s Legal Permanent Resident (LPR) Program (Presented by Blanca Lopez for LA County):
* AB817 which was passed in August 2013, amended EC 12300 and 12302.
* Legal permanent residents may now serve as pollworkers, but they may not serve as Inspectors nor can they tally votes.
* Los Angeles approached the implementation of this program by asking questions like:
  + Where will we put the program within the Department?
  + How will we track it?
  + Do we need to get proof of residency?
  + Do LPR pollworkers sign the loyalty oath on Election Day?
* Eugene Lee at Advancing Justice LA helped a great deal and suggested that we administer LPR pollworkers in the same manner that we administer student pollworkers since both classes of pollworkers cannot register to vote.
* A number of specific questions were asked and answered related to the program like: Does LA require proof of residency or is the signature on the application ok? Signature is enough; Will LA be modifying the oath on the declaration page? The oath does not say you are a citizen, just that you would defend the constitution, so no; What capacities will LA have LPR pollworkers working in? Clerks since they may not be Inspectors nor tally votes (they can still help count ballots and touch them, just not tally – and we know of no jurisdictions where tallying is done at the polls); Are they okay to work with voting equipment like touchscreens? There is no restriction in code to prohibit that, so yes; They must be LPRs and NOT undocumented, correct? Correct.
* Ben Behrens from San Joaquin County presented his design of an electronic dynamic PDF of the SOS Poll Place Accessibility Checklist. The tool allows the surveys to be collected and stored electronically. The data may be imported into Election Management Systems. Mr. Behrens has shared this program with a number of counties and is willing to share with any jurisdiction that would like it. Thank you Mr. Behrens and Austin Erdman for this generosity!
  + It took Mr. Behrens a few months to create the 2010 survey tool and he is currently working on a new version that accommodates changes to the official SOS checklist and a draft version of that is available.
  + This tool addresses many of the challenges that the vendors with similar products have not, for example:
    - It allows for multiple instances (unlimited) for each type of feature, such as parking spaces, doors, paths of travel, hallways, ramps, etc.
    - It eliminates the need for paper storage and hauling.
    - It has internal prompts to keep surveyors on track.
    - And more!
  + Coming version includes a N/A box which is a difference from the SOS version and a “needs mitigation” summary to help decision makers back at the office.
  + The tool can link pictures to the survey. Mr. Behrens does it back at the office because it does take some time.
  + Currently, Mr. Behrens operates the tool on a Windows Surface Pro (8.1 or 8 versions); Mac and Adobe dynamic forms don’t work well yet, but a version is supposed to be coming out that should help with that.
  + For people who prefer paper, they can print the PDF.
* Secretary of State Update (Todd Wallace):
* CCROV on Sensitivity at the Polls will be mailed to counties in hard copy to follow up on the digital version recently sent to counties.
* Counties have been selected for Election Day observations and were sent notification. (Those counties are: Sacramento, Los Angeles, Contra Costa, Riverside, San Bernardino, and Alameda.)
* Access grants are active until December 2014, but please send in your invoices by 6/30/14 for expenses in 2013-2014 FY if you are able.
* On the SOS VAAC Guide (how to form and maintain a VAAC): revisions are being made based on feedback; hope to issue final version soon.

**Voting System Certification Subcommittee**

Susan Lapsley of the SOS gave status reports and answered questions on Voting System Certification.

* Dominion Democracy Suite 4.14. is scheduled to undergo volume and accessibility testing in April/May.
* National Testing Systems has purchased Wyle Labs. (Wyle was a Federal Voting System Testing Lab.)
* Runbeck Elections has a new facility in Sacramento; new facilities in Santa Barbara and Placer are pending.

**HAVA Subcommittee (SOS Staff Gave Udpates)**

* Voting Modernization Board’s last meeting addressed policies and procedures related to SB 360.
* VoteCal team will host a project overview call for all counties on May 8; it will also host a standards meeting on April 29 and May 5.
* Re-stated information given in VWSN meeting. (See Mr. Wallace’s report above.)

**Conditional Voter Registration (CVR) Subcommittee**

Joe Holland, Chair of this subcommittee gave a summary of the meeting that took place yesterday.

The subcommittee worked through use case scenarios regarding fail safe voting and processing voters who cast a ballot and then move to another county (and may potentially cast another ballot in the same election). Discussion will continue and be formalized in the future.

The subcommittee also discussed possible need for freezing registration in relation to election activity; when would a freeze occur in the CVR context and how would COVR respond to a file freeze (blackout period).

**Business Process (BP) Subcommittee for VoteCal**

John Gardner, Chair of this subcommittee gave an overview of the BP Subcommittee meeting yesterday.

* Mike Rockenstein provided a summary on the current status of the VoteCal project and upcoming events.
* There will be a hardware evaluation for all counties to assess impact related to voter registration image storage.
* Group worked on list of outstanding technical questions; this may be distributed to wider audience by Annual Conference.

**SB 90 Subcommittee**

Alice Jarboe reminded group that today is the last day to provide information to Department of Finance related to Post Election Manual Tally audits.

Also, please begin collecting/capturing costs related to AB 813 (requires downloadable statement of vote) for submission to the mandate process in 2015.

The meeting was adjourned by Karen Rhea.

Respectfully submitted,

Tim McNamara

Thank you to Karen Rhea, Jaime Young, Scott Konopasek, and John Gardner for their assistance in compiling this month’s minutes.