CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

Legislative Committee Meeting

Minutes

May 22, 2014

Sacramento, California

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| --- | --- | --- | --- |
| Attendees: | County | Attendees: | County |

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| --- | --- | --- | --- |
| Scott Konopasek | Contra Costa | Ted Mulhauser | Secretary of State |
| Karen Rhea | Kern | Jana Lean | Secretary of State |
| Tim McNamara | Los Angeles | Gloria Colter | Sonoma |
| Jill LaVine | Sacramento |  |  |
| Cynthia Paes | San Diego |  |  |
| Michael Vu | San Diego |  |  |
| Joe Holland | Santa Barbara |  |  |
| Tricia Webber | Santa Cruz |  |  |

Jill LaViine convened the meeting at 9 a.m. Introductions were made.

**Minutes from April 25, 2014**

Motion by Tricia Webber to approve April 25, 2014 minutes. Michael Vu seconds motion. Motion carried.

# *Legislation*

SB 280 (Alejo) Voting rights

Position: Watch

Discussion: Existing law, the federal Voting Rights Act of 1965, provides that a change in voting procedures may not take effect in a state or political subdivision that is covered by the preclearance requirements of the federal act until the change is approved by a specified federal authority. A state or political subdivision is covered by the preclearance requirements of the federal act if it maintained a specified test or device as a prerequisite to voting, and had low voter registration or turnout, in the 1960s and early 1970s. The United States Supreme Court has held that the coverage formula of the federal act is unconstitutional and may not be used as a basis for requiring a jurisdiction to subject a proposed change in voting procedures to federal preclearance. Prior to that holding, the counties of Kings, Monterey, and Yuba were covered jurisdictions subject to the federal preclearance requirements.

This bill would establish a state preclearance system applicable only to the counties of Kings, Monterey, and Yuba. Under this system, if a county enacts or seeks to administer a voting qualification or prerequisite to voting, or a standard, practice, or procedure with respect to voting, that is different from that in force or effect on June 25, 2013, the county elections official would be required to submit the qualification, prerequisite, standard, practice, or procedure to the Attorney General for approval.

CACEO will watch this bill.

AB 1752 (Fong) Redistricting: incumbent designation.

Position: No position

Discussion: Existing law, as added by constitutional initiative, requires the Citizens Redistricting Commission, in the year following the year in which the federal decennial census is taken, to adjust the boundary lines of the congressional, State Senate, Assembly, and Board of Equalization districts. Existing law specifies which candidate for the office of Representative in Congress, State Senator, Member of the Assembly, or Member of the Board of Equalization shall be deemed the incumbent of the district for purposes of the first election following decennial redistricting.

This bill would change the order of which candidate shall be deemed the incumbent at the first election following decennial redistricting. This bill would also make a conforming change to reflect the redistricting process.

This bill may assist the Secretary of State in making decisions related to determining who may be designated as an incumbent on the ballot.

CACEO has no position on 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 register to vote on his or her high school campus any person who is qualified to register to vote. This bill, operative when the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002, would also permit a pupil to register to vote any person who is 17 years of age or older and otherwise meets all voter eligibility requirements.

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.
* Why does the latest version of the bill have a contingent provision related to the creation of VoteCal?

Dean Logan – who has reviewed the bill with author’s staff – will be requested to seek clarification on the VoteCal provision. Ms. LaVine will also ask Mindy Romero of the California Civic Engagement Project if she has any insight into the VoteCal provision.

CACEO will continue to watch.

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.

(Note: The status of these bills and general discussion of these bills mirrors last month’s discussion since there have been no amendments.)

AB 2093 (Grove) Petitions: filings

Position: Support with suggestion for amendment

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.

Attendees – after reviewing latest amendments – discussed concern that without specific technical specifications in the bill then there may be the possibility of not addressing the need to move petition filing to the next businessa day if the filing date falls on a weekend/holiday.

Motion by Scott Konopasek to support and suggest amendment - if the final date for filing a petition falls on a weekend day - then the petition may be filed on the next business day. Joe Holland seconds motion. Motion carries. Specific amendment will be discussed at next meeting.

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. However, the elections official would not be permitted to reduce the number of signatures to less than 100 for a special election to fill a vacancy in the office of Representative in Congress, state Senator, or Member of the Assembly.

No Position.

AB 2550 (Hernandez) Election dates

Position: No Position

Discussion: This bill would require general municipal and general district elections held on or after July 1, 2015, to be held on the first Tuesday after the first Monday in June of even-numbered years, or on the first Tuesday after the first Monday in November of each odd-numbered or even-numbered year, subject to certain exceptions. 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 an election provided for in the principal act of held in a district if the principal act of the district provides for a runoff election. The bill would also provide that, if a board of supervisors of a county of the first class denies a request to consolidate an election, that election shall not be held on the date of the statewide election.

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; Related to this bill and for the record, Marin County would request that the May election date be removed from the Elections Code.

AB 2562 (Fong) Elections

Position: Support

Discussion: AB 2562, as amended, Fong. Elections.

(1) Existing law provides that whenever a vacancy occurs or a resignation containing a deferred effective date has been filed with the county superintendent of schools, the school district or community college district governing board is required, within 60 days, to either order an election or make a provisional appointment. Existing law provides that if a provisional appointment is made, the registered voters of the district may, within 30 days, petition for a special election to fill the vacancy, and requires a specified number of registered voters of the district to sign the petition. This bill would clarify the meaning of “registered voters” of the district for purposes of those provisions.

(2) Under existing law, a person may not be registered to vote except by affidavit of registration. Existing law requires a properly executed registration to be deemed effective upon receipt of the affidavit of registration by the county elections official if the affidavit is postmarked, submitted to the Department of Motor Vehicles or a voter registration agency, or delivered to the county elections official by other means on or before the 15th day prior to the election. This bill would also require the registration to be deemed effective upon receipt of the affidavit by the county elections official if the affidavit is submitted electronically on the Internet Web site of the Secretary of State on or before the 15th day prior to the election.

(3) Existing law entitles only an eligible registered voter to sign an initiative, referendum, recall, nominating petition or paper, or any other petition or paper and requires each signer to personally affix his or her signature, printed name, and place of residence on the petition or paper. Existing law requires the elections official, when verifying signatures on a petition or paper, to determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, the petition or paper does not specify the residence address, or certain information is not included, existing law requires that the affected signature not be counted as valid. This bill would prohibit an elections official who is verifying signatures on a petition or paper from invalidating a signature for an incomplete or inaccurate apartment or unit number in the residence address.

(4) Existing law requires the county elections official to file with the Secretary of State a statement containing specified information for each election in the county held pursuant to the Uniform District Election Law. Existing law requires the county elections official to file the statement no later than December 31 immediately following a general district election. This bill would repeal these provisions.

(5) Existing provisions of the California Constitution and statute authorize the recall of state and local officers. Under existing law, if a vacancy occurs in office after a recall petition is filed against the vacating officer, the recall election is required to proceed. The vacancy in that office is required to be filled as provided by law, but a person appointed to fill the vacancy holds office only until a successor is selected and qualifies for that office. This bill would delete and correct erroneous cross-references in this provision of law.

(6) Existing law regulates generally the issuing of ballots on election day as well as the use of direct recording electronic voting systems. Existing law defines the terms “direct recording electronic voting system” and “paper record copy” for purposes of these provisions.

This bill would correct erroneous cross references to the code section that defines those terms.

This bill has three CACEO proposals.

Motion by Tim McNamara to support. Jill LaVine seconds motion. Motion carries.

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 have had a number of concerns/comments about various versions of the bill related – especially – to definitions and posting requirements. Special discussions by CACEO members with SOS staff and draft amendments have not completely addressed the concerns and those efforts seem to have exhausted the possibility of addressing core concerns by CACEO.

Motion by Jill LaVine to send letter of concern to author. Michael Vu seconds motion. Motion carries.

AB 2715 (Roger Hernandez) District-based municipal elections

Position: Watch

Discussion: This bill would permit the legislative body of a city to provide by ordinance, without submitting the ordinance to the voters of the city for approval, for the election of members of the legislative body by district if the voters of the city previously rejected such an ordinance, as specified. This provision would be repealed on December 31, 2016. It would, also, commencing January 1, 2017, require the legislative body of a city with a population of 100,000 or more, as determined by the most recent federal decennial census, to provide by ordinance, without submitting the ordinance to the voters of the city for approval, for the election of members of the legislative body by district. The bill would, also, commencing January 1, 2017, permit the legislative body of any other city to provide by ordinance, without submitting the ordinance to the voters of the city for approval, for the election of members of the legislative body by district. The bill would require that the boundary lines of each district be adjusted in accordance with specified provisions of law.

CACEO will continue to watch.

SB 240 (Yee) Vote by mail ballot drop boxes

Position: Watch

Discussion: This bill was going to – possibly – be used as a vehicle to address an unintended voting system certification issue associated with SB 360. It will not be used as such. The certification issue will be addressed elsewhere.

SB 1063 (Block) Voter registration: juvenile detention facilities

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 provide affidavits of registration to eligible voters, to assist those individuals with the completion of the affidavits of registration, and to transmit completed voter registration cards to the county elections official or to assist individuals in returning the completed cards to the county elections official.

Continue to watch.

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

* Legal Permanent Resident Pollworker (LPR)Program – High School Student Update
  + During the last call, Riverside asked if students could be LPR pollworkers; it was stated that they could be; upon code review, it appears that they can’t be
    - After speaking to bill sponsors, not allowing LPR students under 18 appears to be an unintended loophole.
    - Under its High School Student Pollworker program, Los Angeles County will only deploy LPR pollworkers if they are 18 or turn 18 by Election Day.
  + Los Angeles County will be working on an amendment to correct the loophole.
  + Sonoma has had questions about this type of program.
  + San Diego has developed a program.
* Program for Annual Conference is already set, so VWSN will review LPR topics these in Annual Conference subcommittee meeting and request presentation time for New Law.
* Plans for this VWSN subcommittee meetings this summer include:
* Have Carnegie-Melon researchers speak on a call to subcommittee on their assistive device development.
* Have a call dedicated to a presentation on the American Communities Survey.
* Glossary work will pick up just after the election. LA has links to expanded glossaries on their website and CACEO site.
* HAVA Compliant Devices, Getting Poll Workers to Set Them Up, and Getting Poll Workers to Use Them. Some Best Practices:
* San Diego –
* Deploys mitigation equipment via troubleshooters.
* Use “touchscreen inspector” at the polls (paid $125 vs $150 for poll inspector)
  + Get extra training
  + Pick up the touchscreen 10 days before the election
* Touchscreen inspector frees up the main inspector for other duties
* Have had good successes with using students/college students not being intimidated by the machine
* Sacramento – uses supply trucks throughout the county where coordinators can get replacement equipment.
* Los Angeles – all pollworkers are trained on assistive device set up and use; pollworkers – like in Santa Cruz County – are instructed to offer all voters assistive device; set up check lists are used; county has regional distribution centers like Sacramento for replacement units; field coordinators and troubleshooters are trained to replace equipment.
* Sonoma – (Hart E-Slates)
  + Access training is now done at the beginning to make sure pollworkers don’t leave before they experience this training.
  + Send instructions to inspectors on a DVD ahead of time.
* Field support officers have extra equipment in the field too and
  + they check with inspectors first thing in the morning to make sure they touchscreens are set up correctly
  + field support is assigned to 10-14 precincts
* There is training on the website and the video is from Hart
* Uses phone application which is a mirror of the website so you can access all instructive/equipment insturctions on a phone.
* Kern – (Accuvote Touchscreens)
* Uses a compilation of the above techniques
* There is a certification program for poll workers and 2 people per site must be certified
* There is a DVD handout
* Field representatives are required to do hands on training
* Each site has a backup unit
* There is technical support on the phone bank; built help desk to handle equipment issues.
* Each poll must check in that the machine is set up.
* Field representatives must verify that they are physically set up correctly.
* Sacramento –
  + They address set up during pollworker training using hands on training techniques.
  + Field Coordinator training emphasizes that equipment must be set up and working.
  + Field Coordinators complete check lists to ensure equipment is being used appropriately.
* Santa Cruz –
  + Trains “Electronic Voting Specialist” or EVS to set up, operate and break down the touchscreen on Election Day.
  + Each precinct gets an EVS.
  + EVS (as well as Inspectors and Roving Inspectors) must go to EVS class which is 3 hours and covers just how to use the equipment.
  + Touchscreens are set up on accessible tables just for that purpose (Automark Tables) and are located on the shortest accessible route in the polling place, but must be near the check in table and scanner.
  + If touchscreens go down on Election Day, replacements are tested and deployed from HQ. It can take 4 hours to get one out the polls.
  + SOS mandates a 100% manual tally of the touchscreen votes. Santa Cruz using a team of two (one reads, one tally’s) and they take their results to an independent result checker.
* Heads up; words to the wise – The topic of effective set up of HAVA compliant equipment will continue to be emphasized by advocates; anticipate more observation in the field in this area.
* Secretary of State Updates:
  + Secretary of State (SOS) VAAC Guide
    - The VAAC guide is going through an SOS internal review after changes were incorporated.
    - It will next head to the State VAAC and back to VWSN for another round of review.
* Poll Place Accessibility Guidelines and Checklist (PPAC) are in their “final, final, final” version and are now posted on the website.
* Poll Place Surveyor training video is not yet updated, but in the works. It may take a few months.
* American Sign Language (ASL) state pamphlet information is in Voter Information Guide (VIG) Section on the website. It covers general information. All non-election specific items from the VIG will eventually be made into ASL videos. Other portions may follow.
* Access grants are active until December 2014, but – if possible - please send in your invoices by 6/30/14 for expenses in 2013-2014 FY to assist SOS administer program.
* Question –
  + Will audio cassettes with SOS voter information be replaced with a digital format eventually? Some information is already posted on the website.
  + San Diego migrated from cassettes to CD and now to MP3 files. These are posted on the website.
* Order form for SOS cassette tapes and CDs is on their website.
* Other topics:
* Election Day Hotline – during major elections, phone lines get overwhelmed. Los Angeles County uses a special community advocate hotline so specific topics can be escalated. This should be a topic for the June meeting and moving forward.
* New Requirements for Multilingual Poll Workers; some counties are experiencing intense challenges in recruiting pollworkers in general; implementation of the new multilingual pollworker requirements have amplified this; some best practices discussed; this will be a future topic.
* Postings at polling places should be a topic for the June meeting.
* Sonoma County – New Election Education phone app.
  + App lets you register to vote, check the status of your VBM, etc. AND it is accessible!
  + Sonoma promised to demo their app at Annual Conference.

**Voting System Certification Subcommittee**

Ryan Macias of the SOS gave status reports and answered questions on Voting System Certification.

* OVSTA continues ballot printer inspection; contact Ryan Macias if you have questions regarding specific vendor inspections.
* Dominion Democracy Suite 4.14. has undergone and passed volume testing. It has also undergone accessibility testing (awaiting results). Functional testing will begin after use procedures have been clarified.
* EAC Activities: Dominion Democracy Suite 4.14-A1, EAC approved Test Report on May 2 and will provide comments or approval on the Test Report by May 30; and Hart Verity 1.0, EAC approved Version 1.2 of the Test Plan on and hardware testing with SLI Global is delayed as Hart works on updates and modifications to the system.

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

* Please see Business Process Committee for VoteCal and Voters with Specific Needs subcommittee reports. Some portions of the topics from those meetings were repeated in the HAVA subcommittee meeting. (See reports from Mr. Rockenstein and Mr. Wallace.)
* Voting Modernization Board has potential meetings scheduled in June and July to address first phase of Los Angeles County’s voting system.

**Conditional Voter Registration (CVR) Subcommittee**

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

* Discussed EC 14311 and provisional voting at poll places in order to make a case that CVR can be narrowly defined so that CVR ballots may be processed before election day. This would not be the case if they were treated as provisional ballots. This will be discussed further at a future meeting.
* Discussed voter history. When do counties apply voter history? This is part of a larger discussion to determine when to process a CVR ballot since a CVR voter may have cast a ballot in a polling place or in another county. This general discussion also involved how VoteCal will track a voter so potential voter fraud may be prevented by using VoteCal’s potential capabilities.
* 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.
* Per the discussion of ensuring that CVR voters are tracked appropriately to prevent “voting twice”, it was suggested that we explore the use of poll books and how the Colorado vote center model tracks voters. (Colorado is having an election June 23.) Utah also may provide a good model.

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

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

* Mike Rockenstein provided an overview on the current status of the VoteCal project and provided a handout. Notable items included:
  + 84% of county contracts have been returned to VoteCal.
  + Expect continuation of Monthly meetings (next call is August).
  + New data standards document distributed to all counties on May 16th.
  + Project is still on-schedule in the design phase.
  + EMS vendors are working on test plan design and training plan.
  + VoteCal presentation at CACEO in July.
  + Kim Gauthier was introduced as project sponsor.
  + Susan Lapsley is acting in the role of Project Manager until the role is permanently filled.
  + The VoteCal implementation Proposed Deployment Waves document was discussed.
* Greg Darrah led the VoteCal team through a review of the VoteCal Project Questions and Answer log was conducted.
* Anand Deshmukh provided an overview document on high confidence matching.
* Related to Issue #89 - Blackout Periods. Michael Vu had concerns about overlaps with blackout periods particularly related to petitions. What is the impact if multiple events are happening at the same time? VoteCal provided a handout on list maintenance blackout dates which reflects NVRA list maintenance activities which match the administrative code section. Additional review of this item was requested by the BPC.

The meeting was adjourned by Jill LaVine.

Respectfully submitted,

Tim McNamara

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