CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

Legislative Committee Meeting

Minutes – May 24, 2013

Sacramento, California

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| Attendee | County | Attendee | **County** |
| Tim Dupuis | Alameda | Deborah Seiler | San Diego (emeritus) |
| Stephanie Mizuno | City Clerk Leg Committee | Michael Vu | San Diego |
| Joe Canciamilla | Contra Costa | Bart Broome | Secretary of State |
| Scott Konopasek | Contra Costa | Robbie Anderson | Secretary of State |
| Karen Rhea | Kern | Cathy Darling Allen | Shasta |
| Tim McNamara | Los Angeles | Elizabeth Acosta | Sonoma |
| Elaine Ginnold | Marin | Aaron Rosa | Stanislaus |
| Xioneida Ruiz | Napa | Bev Ross | Tehama |
| Ryan Ronco | Placer | Jennifer Vise | Tehama |
| Alice Jarboe | Sacramento |  |  |
|  |  |  |  |

Deborah Seiler convened the meeting at 9 a.m. Introductions were made.

**Minutes from April 26, 2013**

Motion by Cathy Darling to approve April 26, 2013 minutes with corrections. Elaine Ginnold seconds motion. Motion carried.

# Guest Speaker: James Schwab, Legislative Consultant for Senator Padilla

# Mr. Schwab gave an update on four bills authored by Senator Padilla. This was a continuation of feedback that Mr. Schwab began soliciting from counties on these bills from prior meetings. The conversation included:

* On SB 311 (Local elections: charters and charter proposals)
  + This bill would allow city or city and county charter actions to be submitted to the voters only at statewide general elections. Mr. Schwab described it as a bill that is intended to address low voter turnout when charter issues are on the ballot. That is, if a charter amendment is brought before the voters, then causing that issue to be on a ballot where turnout is the highest seems the best placement for the good of the electorate. The latest amendments were technical in nature. There was no further discussion of this bill today. CACEO has a watch position on this bill.
* On SB 360 (Approval of voting systems)
  + This bill has a large scope and proposes to significantly revamp the voting system certification process; the author continues to work with Los Angeles County, the Secretary of State (SOS) and groups like Verified Voting and the ACLU on crafting this bill which – in part – would allow the possibility to more broadly pilot voting systems and potentially shift more voting system testing duties to the Secretary of State (vs. relying on Federal Certification processes). The bill should move to Assembly soon. Look for amendments in the future related to – at least – clarifying the meaning of piloting a voting system and addressing Orange County concerns related to accommodating systems that are already in the federal testing pipeline. Letters to the Governor supporting this bill will be important to its passage. Los Angeles County and the author’s office can provide assistance on support letters.

CACEO supports this bill.

* On SB 361 (Elections: voter registration)
  + The latest amendment to this bill removes various voter registration data maintenance provisions that were in the original bill including working with other states to share voter registration data for list maintenance purposes. The author is still interested in addressing the voter file maintenance issues including working with PEW’s ERIC project but was concerned about the current cost related to this.

CACEO will continue to watch this bill.

Attendees also discussed various election processes that could – potentially – be made more efficient or were of concern. These included: number of registered voters allowed in a consolidated precinct; costs of special elections; random sampling thresholds for petition checking (CACEO proposes to reduce passage threshold from 110% to 105%); halting petition checking when enough counties have projected validation (currently all counties must complete work even if enough valid signatures have been submitted); addressing suspended mandates; and removing central committees from ballots.

# Future of California Elections (FOCE) topics

Mr. Darling Allen had questions/information to share from FOCE:

* FOCE may propose the use of a postcard to gather signatures from COVR registration applicants who do not have signatures on file with the DMV. This postcard would then be considered part of the registration record once the signature has been submitted by the registrant. Ms. Darling Allen asked attendees to give feedback on this proposal today or in the near future. Immediate feedback was that some attendees felt that they already had adequate processes in place such as printing out the COVR form and sending it to voters for return with signature. Other attendees were concerned about the privacy of the signature on a postcard. Other attendees asked if this was a big enough problem to need the postcard solution. We will continue to follow this topic as it is further considered by FOCE.
* Since SB 361 has removed provisions related to across state data sharing (i.e., potentially using PEW’s ERIC), would it be okay (under current law) for a county to participate in ERIC independently? Bart Broome stated that the SOS does not think this is allowable under current law due to privacy issues. (The voter data would be housed on a private server shared by other states and there is concern that there may not be adequate system security.)
* FOCE’s director is Doug Chapin and it has recently hired an assistant director. FOCE will soon have an office in Sacramento.

Note: There was a sidebar at this point related to alternatives to vote by mail for voters who can’t use the poll place. Specifically, disabled voters may benefit from – at least – receiving their ballot material by e-mail or through a service like Democracy Live. The large question was: should the ability to issue ballot materials electronically be expanded to populations beyond UOCAVA voters. This discussion will be continued.

# Guest Speaker: Senator Leland Yee, Melissa Apuya (Senator Yee’s Legislative Aid), and Allan Burdick

# Senator Yee, a candidate for Secretary of State, addressed attendees on a number of topics including:

* His interest in the election process and his belief in the power of the vote specifically in light of his background as an immigrant from a country that did not have a strong democratic model.
* His interest if having a Secretary of State that advocates for uniformity and stability in the election process as opposed to an environment where each administration significantly changes the mechanics of elections.
* SB 637 – his early voting bill that CACEO has concerns about. Senator Yee sought attendee feedback and CACEO members indicated that they had significant concerns about the lack of adequate equipment and infrastructure to implement provisions of the bill. Senator Yee stated that it was not his intent to pass a bill that was not viable and was willing to work with us on amendments to the bill. Michael Vu proposed that an alternative to the current approach of the bill would be to start out by addressing basic components of early voting challenges. (For more information on this bill see below under Legislation section.)
* His support of SB 360 as long as it provided for uniformity of voting experience throughout the state.

Additionally, Allan Burdick discussed conversations that he had with Senator Yee related to restoring unfunded election mandates in order to ensure uniform election processes throughout the state. (That is, ensuring that all counties are providing the same services to voters rather than some counties performing services for voters that other counties were not due to lack of mandate reimbursement.)

# Legislation

AB 141 (Gorell) Elections: write-in candidates

Position: No Position

Discussion: This bill would require that a write-in candidate for a voter-nominated office receive votes at the direct primary election equal in number to at least 1% of all votes cast for the office at the last preceding election at which the office was filled in order for his/her name to be placed on the general election ballot.

This bill must be accompanied by an amendment to the California Constitution on a fairly narrow topic. Attendees would like to see any bill related to Proposition 14 that would cause a vote of the people for enactment to be less limited in scope by addressing any other mechanical/technical issues that may be related to Proposition 14. As such, attendees will remove support and focus on SB 712 which has similar provisions as this bill but is a two year bill.

Motion to remove support (take no position) by Tim McNamara. Alice Jarboe seconds motion. Motion carries.

AB 331 (Garcia) Consolidation of elections

Position: Support

Discussion: This bill would specify that whenever an election called by a district, city, or other political subdivision is consolidated, the election shall be conducted according to laws regulating the state and/or special elections and that resolutions to consolidate by jurisdiction requesting to consolidate shall acknowledge this.

Tim McNamara and Efrain Escobedo from Los Angeles County have met with Stephanie Mizuno and other City Clerk representatives to address outstanding concerns related to this bill. Those concerns appear to have been addressed by latest amendments.

This bill was brought for information purposes only today. CACEO continues to support this bill.

AB 354 (Dahle) Ballot measures: ballot title and summary: ballot label

Position: No Position

Discussion: This latest amendment to the bill would require only the ballot title and summary and impartial analysis for state and local measures to include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the Legislature. It removed a prior provision to require the ballot label to require such a statement.

817 (Bonta) Election officials

Position: Support

Discussion: The latest amendments to this bill would authorize an elections official to appoint a person who is a lawful permanent resident of the United States and who is otherwise eligible to vote, except for his/her lack of United States citizenship to serve as a precinct board member but prohibit such board members from serving as Inspector.

CACEO and the author continue to research if I-9s (tax forms) will be required for permanent resident precinct board members.

CACEO continues to support this bill.

AB 938 (Weber) Voting: felons: parolees

Position: Support

Discussion: This bill has been substantially amended since CACEO took its support position although it still has provisions related to providing specific identifying information to elections officials before cancelling records that CACEO requested. Michael Vu will contact Lori Shellenberger from the ACLU – San Diego – who in a prior meeting presented the ACLU’s perspective on the bill to determine their perspective on latest amendments. Additionally, the SOS opposes this bill in its current form due to its concern that the data matching language in the bill (name, address, date of birth and SSN – if available) may lead counties to leave voters on rolls when not all data matches, thereby, leading some felons to the belief that they are eligible to vote when they are not.

AB 1135 (Mullin) Vote by mail: military or overseas voting

Position: Support

Discussion: This bill would permit elections officials to compare the signature on the return vote-by-mail ballots to either a voter’s affidavit of registration or supporting documents that contain the voter’s signature and is part of the voter’s registration record on file.

There are amendments that are forthcoming so this bill will be brought back for further discussion in June.

Additionally, Bart Broom from the Secretary of State’s office distributed proposed amendment language to a related bill AB 1135. That bill is SB 589. The proposed amendment language seeks to address electronic comparison of signature which may in turn address the outcome that CACEO is seeking in relation to AB 1135. Specifically, the proposal would add this language at EC 3019: ***Where the elections official utilizes an electronic means of comparing the signatures and they do not compare, the ballot may not be rejected until the elections official physically verifies the signatures through a non-electronic means and concurs.*** The amendment language also proposes at 15320: ***If the elections official utilizes, for purposes of processing vote by mail and mail ballot precinct ballots, an electronic means of comparing the signatures and they do not compare, the ballot may not be rejected until the elections official physically verifies the signatures through a non-electronic means and concurs.*** One immediate suggestion was to remove the word “physically” from the proposed language. Mr. Broome state that he thought this proposal seemed reasonable and would take the suggestion under consideration.

We will review anticipated amendments and Mr. Broome’s proposal in further detail at the next meeting.

From last year’s session: AB 1805 (Huffman) Military of overseas voters

Discussion: Attendees continued to review Elections Code sections 3102 and 3120 from this bill. There are outstanding questions related to best practice file maintenance for military and overseas voters that relate to these two code sections. Examples of questions/issues related to these sections were:

* Best practices for reaching out to voters to ensure that their e-mail addresses are correct/viable before sending ballot material.
* The efficacy of Elections Code section 3120 which provides (in part) that: “…A military or overseas voter who provides and electronic mail address may request that his or her application for a ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date the application or another shorter period the voter specifies.”
* Interpretation of the MOVE Act vs. the Elections code regarding intent of keeping applicants on rolls. (See especially EC 3102 b).
* Addressing issues like family members who have used the FVAP process but are still voting locally at polls and military/overseas voters who do not have viable PO Boxes? (Should they be cancelled?)

Michael Vu, Kami Foote, Jana Lean, Robbie Anderson, Scott Konopasek will explore Election Code sections 3102 and 3120 vis a vis the Move Act and bring back their findings for further discussion next month.

SB 112 (Monning) Voter information: public examination

Position: Support

Discussion: This bill would require that voter registration card information be available to the public 100 years after the creation of the record. Also, if the records are contained in the great registers of voters and the bound register contains information covering more than one year, the bill would prohibit the public availability of the records until the entire contents of the register have been recorded for at least 100 years. The bill is sponsored by the SOS.

At the last meeting attendees indicated some concern that the bill may imply that there is an obligation to preserve records for 100 years. Mr. Broome circulated draft language today to clarify that there is no such obligation and that the material will be made public should it be available. The language appears to address this issue and we will review it again when related amendments are made to the bill.

SB 240 (Yee) Polling places: higher education campuses

Position: Watch, send Letter of Concern

Discussion: This bill would, for statewide general elections, require election officials to establish polling places within each California State University, University of California and within each community college if convenient for voters if the county/city has 150,000 voters or more.

CACEO sent a letter to the author based on concerns related to probable confusion by voters in appropriately finding poll places on large campuses; increased numbers of provisional ballots that will not be counted due to lack of student eligibility; and technical problems with re-establishing voting precincts on campus. Instead, the letter recommends working more closely with campus administrators to educate students about voting locations that already exist on or near campuses and the election process in general.

This bill appears to have been dropped by the author. No further discussion today.

SB 267 (Pavley) Polling places: higher education campuses

Position: Watch, Letter of Concern

Discussion: This bill would, for statewide general elections, require election officials to establish polling places within each California State University, University of California and within each community college if there are at least 1,000 people who live on campus.

CACEO has sent a letter of concern to the author.

Latest amendments include provisions to limit the proposal to apply only to statewide general elections held in November of each even-numbered year. The author has not been responsive to our letter of concern; we will continue to watch this bill.

SB 311 (Padilla) Local elections: charters and charter proposals

Position: No position

Discussion: See discussion above.

SB 360 (Padilla) Approval of voting systems

Position: Support

Discussion: See discussion above.

SB 361 (Padilla) Elections: voter registration

Position: Watch

Discussion: See discussion above.

SB 553 (Yee) Local government: assessment: elections procedures

Position: Oppose

Discussion: This bill would prescribe methods for conducting property owner elections.

CACEO sent letter voicing concerns to author on April 1. There was no response to the concerns.

Bev Ross and Jennifer Vise (Tehama County) indicated today that their County Counsel is working with the author to potentially address our concerns. Attendees will wait for more information/details from the author and/or Tehama County for further consideration.

SB 570 (DeSaulnier) Local government: public records: copy charges: retrieval

Position: Watch

Discussion: This bill would require – for public records – forms of payment accepted include credit card payment or other electronic payment if a request includes a total of 20 or fewer pages. It would also prohibit charging for copies of records available in PDF or for a copy of data that is extracted from a database if new programming is not required.

No further discussion today. Bring back for further discussion.

SB 637 (Yee) Secretary of State: report: voting prior to election day

Position: Watch

Discussion: This bill addresses early voting concepts. See discussion above.

SB 654 (Leno and Padilla) Ballot measure petitions: translations

Position: Watch

Discussion: This bill would require petitions to be translated under specific circumstances. Attendees have concerns about costs/logistics associated with processing the translated versions. Also, we would request that all translated versions have an indication of the topic of the proposition – in English – so that county election staff can ensure that they identify the petition correctly when processing. Bring back for further discussion.

***Petition Subcommittee:*** The Petition Subcommittee has completed the guidelines. Ms. Seiler will submit to the Executive Board for approval. Subcommittee members will also seek legislative action on petition related items that were identified in the course of the subcommittee’s work. (Otherwise, the subcommittee has completed its mission!)

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

* Molly Arthur from Robis Inc. gave a presentation today on an electronic Poll Place Accessibility Checklist. The device has been used to some extent in the City of Chicago; the servers for the data are in Illinois but other hosting models could be developed; the technology is based on using a phone service – it is not WiFi; tablets and phones can host the survey; there is GPS capabilities; reports are available with the service – the survey language is in SQL so you can do custom work but standard reports are available in Word and Excel; you can add photographs as attachments to the survey; there is potential to monitor the time it takes to complete a survey; Robis has been working with DIMS and DFM to enable data submission into both systems. Ms. Arthur is also working with Yuba County and Jaime Young from Santa Cruz to address enhancing the product to better meet county surveying needs. The pricing of the surveys currently is based on initial startup costs and per survey charge.
* Todd Wallace from the SOS reported that all contracts have gone out in relation to the latest and likely final round of HAVA 261 funds. Counties must sign and submit contracts to the SOS before spending any funds toward fulfilling the contract. (Some counties have earmarked part/all of their contract funding for the tablets like those described above. Counties who do not have provisions in their 261 contracts to procure tablets may contact Mr. Wallace to determine if there is still a possibility of adding such provisions.)
* Mr. Wallace indicated that VoteGrant 3 claims must be submitted to SOS by June 29.
* Tim McNamara recapped outstanding action items including:
  + Jana Lean and Mr. McNamara will develop an agenda for a follow up conference call on methodology that determines which counties are mandated new languages under election code. (Note: when these calls are completed, attendees requested a comprehensive conference on language services.)
  + Assignments related to updating language existing glossaries and creating new glossaries for new languages like Hindi, Japanese, Khmer, Korean, and Thai.

***HAVA/Voting System Subcommittee***

*Susan Lapsley, Ryan Macias, Todd Wallace and the VoteCal team from the SOS gave status reports and answered questions on the Statewide Database, Voting Systems, the Voting Modernization Board, etc.*

* SOS/VoteCal team gave another presentation/overview of the project. It was available via conference call. The presenters were: Bruce Krochman (DFM), Mardell Hall (SOS), Greg Gera (CGI), Irene Wei (SOS), John Davenport (DIIMS), Ross Underwood (CGI), and Mike Rockenstein (CGI). This presentation’s objective was to give a brief update and answer questions.
  + Update:
    - Recent VoteCal team activities include: working to create the project schedule (hope for completion by mid-June); finalizing communication and outreach strategy; creating an Organizational Change Management plan; modest VoteCal website updates; working on system requirements; anticipating EMS remediation; and planning related to selecting pilot counties.
    - The Organizational Change Management plan is intended to ensure that meaningful assessment, communication, training and support are provided during the course of the project. It is due in June. (Note: there is specific project funding available for various training activities that counties will be involved related to VoteCal.)
    - Future communication strategies regarding the project include: giving regular updates at CACEO meetings; creating a newsletter; regular updates to website including a high level explanation; and taking advantage of other appropriate opportunities to communicate about various aspects of the project. (A core goal for VoteCal’s team is to communicate – soon - how the system is going to look and feel on the county end and it was stated that there should be enough information in the RFP – especially section 4 - to use as a vehicle to work toward achieving that core goal.)
  + Questions/feedback from attendees:
    - Similar to the first roll out of the VoteCal project, will specific staff from counties around the state be required to spend a similar amount of time in Sacramento in discovery sessions? Ms. Hall responded that the expectations for participation from county staff in the initial phases of the project may not be as extensive as before but there may be some requests for assistance in August or September. More information will be forthcoming.
    - A request was made from attendees to use as little project management terminology as possible when communicating about the project in order to better facilitate clear understanding of the project and its impacts. (There is an awareness that some formal project management terminology is unavoidable.)
    - It was emphasized that both the VoteCal project team and counties need to do as much as possible to ensure that counties regularly participate in communication sessions like the one today so that surprises to stakeholders are held to a bare minimum. With this is in mind, participants in today’s meeting were asked to encourage election officials throughout the state to attend and participate in VoteCal communication events and related activities as soon as possible.
* Ms. Lean on Voting Modernization Board (VBM): There a no meetings scheduled in the near future. There also have been no new VBM board member appointments and there are not likely to be any until a county is ready to bring forward a significant item to the Board.
* Ms. Lapsley reported that a bill has been introduced in Congress to reauthorize the EAC.
* Ryan Macias reported for OVSTA. (For more details, please see <http://www.sos.ca.gov/elections/ccrov/pdf/2013/june/13046sl.pdf>):
  + Some EAC activities: ESS 5.0.0.0 (EVS) was certified on May 16. There SOS has no application for approval of this system in California nor any recent indication that it will be brought to California. (However, there has been indication in the past that it may be brought to California for potential approval.)
  + There are a number of Administrative Approval requests that are being reviewed by OVSTA. They are for Dominion, Hart, and ESS products and Sonoma County. For details, please see: <http://www.sos.ca.gov/elections/ccrov/pdf/2013/june/13046sl.pdf>
  + ES&S is requesting that the Balotar ballot on demand system be certified to be connected to the DFM system. It is already certified to be connected to the DIMS system.
  + OVSTA will be attending the third annual “State Certification Testing of Voting Systems National Conference,” in Harrisburg, Pennsylvania, June 20-21. The conference is a forum for state voting system certification staff to work together, to share best practices in each state and to create coalitions that can reuse test data to reduce redundant testing, and make certification more efficient. The attendees also will address contingency plans if the EAC were no longer in existence.
  + There was specific discussion about reviewing, analyzing, and updating use procedures.

The meeting was adjourned by Deborah Seiler.

Respectfully submitted,

Tim McNamara

Thank you to Karen Rhea, Linda Tulett, and Jaime Young for their assistance in compiling this month’s minutes.