



Los Angeles County REGISTRAR-RECORDER/COUNTY CLERK

DEAN C. LOGAN
Registrar-Recorder/County Clerk

March 10, 2010

TO: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

William T Fujioka, Chief Executive Officer

FROM: Dean C. Logan,  Registrar-Recorder/County Clerk

POTENTIAL IMPACTS AND COSTS ASSOCIATED WITH PASSAGE OF PROPOSITION 14: ELECTIONS. PRIMARIES. GREATER PARTICIPATION IN ELECTIONS

This memorandum is to inform you of the significant impact that the potential passage of ballot measure "*Proposition 14: Elections. Primaries. Greater Participation in Elections*," also known as the "Top-Two Candidates Open Primary Act" (herein Proposition 14) will have on the County's voting system. After an internal exercise simulating the implementation of the new ballot design requirements enacted by this measure, the Department has determined that our current voting system lacks the physical capacity and technical flexibility needed to fully implement the new requirements. These findings are cause for concern, as changes required to implement the new law would likely entail voting system enhancements still unknown to us, or more dramatically, a total replacement of our voting system. While we have already embarked on a project to modernize our voting systems in Los Angeles County, adoption of Proposition 14 may force acceleration on the time frames and increase the risks associated with the project. Consequently, we are further concerned that the current analysis of the measure's fiscal impact may not accurately inform voters of its potential costs on local government.

Proposition 14 will appear on the June 8, 2010 Statewide Primary Election ballot and seeks to modify California's Primary Elections process for partisan congressional, statewide, and state legislative offices from the current modified-closed primary to an open primary process. The open primary process would allow voters to vote for candidates of any political party, regardless of the voter's party affiliation. The two candidates receiving the highest number of votes in each contest, regardless of party affiliation, would proceed to the General Election.

While the proposition amends the primary process, accompanying legislation Senate Bill 6 (SB 6), passed by the Legislature in 2009, provides for its implementation. As enacted, SB 6 requires a number of substantive and technical changes affecting voter registration forms, polling place signage, and ballots. These changes are more fully described in the attached letter to the Chair of the State Assembly Elections Committee from the California Association of Clerks and Elections Officials (CACEO).

The specific requirements concerning ballot text and the listing of candidates, mandated by SB 6 exceed the physical capacity of our current ballot layout and format. A major element of implementation is the explicit requirement calling for the addition of ballot text in large font text, notices with high text counts, and candidate party preference statements. These new ballot text requirements are simply beyond the capacity and technical flexibility contemplated when our aging voting system was developed and present a significant challenge to implement if the proposition is adopted.

In an effort to gauge the impact of the new ballot requirements on Los Angeles County's voting system my Department conducted a simulation, implementing the new ballot text specifications contained in SB 6. The simulation implemented every ballot requirement specified in the bill; using the June 2006 Statewide Primary Election ballot as a model for the simulation. The exercise overwhelmed the capacity of our ballot. If the proposed open primary process were in place back in 2006 our voting system would not have been able to accommodate all of the contests and measures on the ballot.

The County's InkaVote vote recorder device limits available vote positions to 312 and total vote recorder pages to a total of 12. Our simulated ballot would have required seven additional vote recorder pages beyond the available maximum in order to accommodate the new ballot requirements as well as qualified contests to appear on the ballot.

Further and more detailed evaluation of the measure's full impact on our election operations is certainly warranted and we continue to review the provisions of SB 6 and to consult with our colleagues around the State. However, these initial assessments suggest the likelihood of significant costs and potential risks to the County. I recommend the County monitor this issue closely and ensure that the potential impacts of Proposition 14 on our voting system are identified to our legislators and, where appropriate, to the voting public. We are aware that litigation has been filed with regard to the proposition and that information on the potential and specific impacts on Los Angeles County may be referenced, so we wanted to ensure you were aware of the issues.

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I look forward to providing additional information to you in the future and to working with your Board to ensure that the impacts of any new electoral processes are appropriately mitigated to not adversely affect voters.

ATTACHMENT: CACEO Letter

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CALIFORNIA ASSOCIATION OF CLERKS AND ELECTION OFFICIALS

Rebecca Martinez, President
Madera County Clerk-Recorder
200 West 4th Street, Madera, CA 93637
(559) 675-7721; FAX (559) 675-7870
E-Mail: rmartinez@madera-county.com
Website: www.caceo58.org

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March 2, 2010

The Honorable Paul Fong, Chairman
Assembly Committee on Election and Redistricting
State Capitol, Room 444
Sacramento CA 95814

Re: Impacts of the "Top Two Primary" and SB 6 on Election Costs and Administration

Dear Chairman Fong:

The purpose of this letter is to analyze the impact that Senate Bill 6 (Chapter 1, Statutes of 2009) and Senate Constitutional Amendment 4 (if approved by voters in the June 8, 2010 Primary Election) will have on the administration and cost of elections in California. Should these two proposals be approved by the voters and adopted, the transition and implementation to the new primary system will require significant technical and operational changes impacting voting systems, election management systems, ballot creation, poll worker training and voter education. The following sections will provide further details on the logistical and technical requirements that implementation of the proposals will involve.

The California Association of Clerks and Election Officials is a professional association of County Clerks, Clerks of the Board of Supervisors, Registrar of Voters, City Clerks, and associates. The information and details herein do not represent a formal position in favor of or opposition to these proposals. The goal of this letter is to provide the committee and the public important details associated with the implementation SCA 4 and Senate Bill 6.

Voting Systems

Election officials will be required to reconfigure complex ballot layout and tally systems. Changes to these systems may prove to be problematic in light of current federal and state voting system approval and certification requirements. (See the *hearing on Future of Voting in California* held by the Secretary of State on February 8, 2010.) The best case scenario would involve voting system revision, which may result in substantial financial challenges and time limitations. At the other end of the spectrum, county's voting systems may become obsolete; the time required to purchase, test, and certify a new voting system may be lengthy and problematic.

This legislation will trigger unknown system changes that may result in unanticipated technical and fiscal challenges.

Ballots

The proposals will cause most counties to print additional ballots per voter for two reasons. First, certain provisions will result in a greater number of candidates on each ballot type during a primary election. Ballot design and creation is a delicate balance, and a dramatic increase in the number of candidates on a ballot may have a detrimental effect on ballot layout and spacing. The challenge of having too little space on a ballot is exacerbated in counties with minority language requirements. Second, Senate Bill 6 mandates the addition of a substantial amount of new ballot text that guides voters through the nominating process.

These two factors will likely result in most voters receiving at least one or two additional ballot cards in primary elections.

This increase in the number of ballot cards per voter will generate millions of dollars statewide in ballot production and postage costs. It will increase challenges faced by ballot print vendors to produce and deliver ballots in a timely manner and will tax the resources of election officials as they attempt to count and store the additional volume of ballots.

Voter Education

Election officials and poll workers will be required to learn a new method of voting and teaching it effectively to voters. Experience with several dramatic technical changes to California's election environment over the past two decades has illustrated the difficulties in overcoming voter confusion and technical glitches during initial implementation of new voting systems. The legislation not only changes the method of voting, but it also impacts the manner in which ballots are cast and the nature of the voter registration system – all in a single election. Such a complex set of changes has not occurred in recent memory and certainly not in an environment where diverse and complex voting technology is used throughout the state.

Other Factors/Challenges

In addition to the impacts mentioned above, Senate Bill 6 and SCA 4 will cause major changes in:

- The voter registration and election management systems used throughout the State. These systems are the repositories for registration and candidate information and they contain related modules or components dealing with precincts, poll workers, and ballot layout.
- Sample ballot booklets. The size of these booklets is expected to increase by at least 25% as a result of SB 6. This increase will have a corresponding impact on postage and printing costs.
- Poll worker training programs. These training programs will need to address changes to the process of nominating/selecting candidates to go forward to the general election ballot and of posting new information for voters.
- Voter registration forms and records. These will be completely revamped under SB 6.
- Candidate filing documents. These will need to be revised to reflect the changes in law.

Based on our evaluation, the changes and total implementation of these proposals SCA 4 and SB 6 have the potential to be costly, complex, and time-consuming to implement. In addition, for some Counties the implementation may require a fundamental redesign of their voting systems if not the implementation of a completely different system. Taking these factors into consideration, we are concerned that the current time table for implementation, specified in the proposals, may be inadequate, considering the significant changes that may be required. Of greater concern is the possibility that the Governor might proclaim a Special Vacancy Election for an Assembly or Senate vacancy as early as January 2011.

The California Association of Clerks and Election Officials would be more than happy to provide any additional information or respond to any additional questions, and welcomes the opportunity to work with you to ensure an electoral process that is accessible for all Californians.

Sincerely,



REBECCA MARTINEZ, CACEO President

Cc: The Honorable Anthony Adams, Vice-Chair, Assembly Committee on Elections and Redistricting
The Honorable Bill Berryhill, Member, Assembly Committee on Elections and Redistricting
The Honorable Joe Coto, Member, Assembly Committee on Elections and Redistricting
The Honorable Tony Mendoza, Member, Assembly Committee on Elections and Redistricting
The Honorable Lori Saldaña, Member, Assembly Committee on Elections and Redistricting
The Honorable Sandre R. Swanson, Member, Assembly Committee on Elections and Redistricting