



March 29, 2017

The Honorable Richard Roth, Chairman
California Senate Budget Subcommittee #4
State Capitol, Room 4034
Sacramento, CA 95814

RE: Restoring of State Mandates; Election Administration

Dear Chairman Roth:

On behalf of the California Voter Foundation (CVF), a nonprofit, nonpartisan organization dedicated to improving the voting process to better serve voters, I'm writing to request that you restore funding to the state budget to pay for state mandated local election programs.

The six fundable election mandates proposed to be suspended are listed below. The total amounts beside each item represent the balance due to counties for each of these items as of April 2016, according to the Department of Finance's October 2016 report to the Legislature:

1. Absentee Ballots (Ch. 78 of 1977) – \$49,608,375
2. Absentee Ballots – Tabulation by Precinct (Ch. 697 of 1999) – \$67,700
3. Modified Primary Election (Ch. 898 of 2000) – \$1,816,619
4. Permanent Absent Voters II (Ch. 922 of 2001) – \$11,907,707
5. Voter Identification Procedures (Ch. 260 of 2000) – \$10,075,391
6. Voter Registration Procedures (Ch. 704 of 1975) – \$2,481,096

Based on these figures, the amount needed to restore this funding in the 2017-18 budget is \$75,955,888. The Dept. of Finance's estimated ongoing annual cost is \$32,750,000.

In lieu of funding support for election mandates for the past six years, the Legislature has instead chosen to pass optional laws that allow counties to provide certain voter services and programs **but do not require them to do so**. This pattern of lawmaking creates tremendous inequality in voter services and experiences and undermines all California voters' constitutional right to equal protection under the law. Counties that have more resources are able to provide additional voter services such as early voting, postage paid vote-by-mail envelopes, and voter outreach programs while counties with less revenue do not. CVF's analysis of county budget data collected by the California Association of Clerks and Election Officials found that in November 2014, the amount of money counties spent on elections varied from as low as \$0.85 to nearly \$11 per voter.

We recognize that the latest Department of Finance report found that of the 40 of 58 counties responding most reported complying with the six mandates listed above.¹ However, the report overlooks the fact that though counties may generally be complying with state laws, the explicit

¹ See "Election Mandates Survey," March 27, 2017, http://www.dof.ca.gov/Reports/Other/documents/Elections_Mandates_Survey.pdf.

ways they do so vary from county to county resulting in unequal treatment and tremendous voter confusion.

For example, the laws governing how California's independent, "No Party Preference" (NPP) voters exercise their voting rights are not well written, and result in variations in how counties instruct voters to exercise this option. These variations resulted in confusion among California's estimated 2 million NPP vote-by-mail voters who were entitled to cast crossover ballots in the 2016 Presidential Primary.² Counties set arbitrary deadlines for when NPP vote-by-mail voters had to request a crossover ballot, and the instructions sometimes failed to mention that replacement ballots could be obtained at polling places. These variations in county practices resulted in a lawsuit claiming California was violating voters' 14th Amendment right to equal voting protection and treatment.³ While the lawsuit was not successful, it did highlight how counties' varying interpretations of California law confuse the voting process and result in potential widespread disenfranchisement.

The new Department of Finance report also does not take into account the variations that exist today in voter services and experiences due to the increasing passage of permissive, rather than required election laws that avoid creating new mandates. For example, counties may accept vote-by-mail applications over the phone or online but are not required to do so. Counties that are well-staffed and well-resourced can offer voters multiple ways to request their ballots and voters can make their requests right up until the pre-election seven-day deadline. Voters living in counties that do not accept online or phone requests must mail their requests in a week before the seven-day deadline to ensure timely receipt.

Californians are more engaged in politics than ever before; their ability to participate in elections should not be limited by their location and the size of their county's elections budget. The only way to ensure all California voters have equal voting opportunities regardless of where they live is for the state to restore election mandates funding, enact laws that require equal treatment of California voters, and pay for it. Now is the time to demonstrate the state's commitment to supporting local election programs that facilitate participation for all Californians.

Thank you for your consideration. If you have any questions I can be reached at 916-441-2494 or at kimalex@calvoter.org.

Sincerely,



Kim Alexander
President

² See "CA 120: Confusion Lurks in the California Primary," by Paul Mitchell, published by Capitol Weekly April 25, 2016, <http://capitolweekly.net/ca120-confusion-lurks-primary-california/>.

³ See "Lawsuit Filed Over California Presidential Primary Confusion," by Karma Dickerson, Fox40 News Sacramento, May 22, 2016, <http://fox40.com/2016/05/22/lawsuit-filed-over-california-presidential-primary-confusion/>.