

**SENATE COMMITTEE ON ELECTIONS AND CONSTITUTIONAL AMENDMENTS
SENATOR LOU CORREA, CHAIR**

INFORMATIONAL HEARING: BARRIERS TO VOTER PARTICIPATION

Hearing Overview

The purpose of today's hearing is to explore current and anticipated legal and logistical barriers to voter participation in California and how those barriers can be addressed by the Legislature, election officials, or others.

While California has, and continues to enact, some of the most accessible voting laws and programs in the nation unnecessary barriers continue to discourage universal participation among our diverse electorate. The Committee will hear testimony today from witnesses that include state and local elections officials as well as several organizations that represent voters spanning much of California's demographic landscape - each of whom faces unique challenges in attempting to participate in the democratic process.

The following background information and other attachments relate to, and illustrate the need for, additional steps to mitigate current barriers to full voter participation.

California Voter Turnout: Highs and Lows*

- Highest Turnout: Registered Voters in a General Election: Nov. 3, 1964 (88.38%)
- Lowest Turnout: Registered Voters in a General Election: Nov. 5, 2002 (50.57%)

- Highest Turnout: Eligible Voters in a General Election: Nov. 4, 1952 (74.07%)
- Lowest Turnout: Eligible Voters in a General Election: Nov. 5, 2002 (36.05%)

- Highest Turnout: Registered Voters in a Primary Election: June 8, 1976 (72.60%)
- Lowest Turnout: Registered Voters in a Primary Election: June 5, 2012 (31.06%)

- Highest Turnout: Eligible Voters in a Primary Election: June 3, 1952 (52.83%)
- Lowest Turnout: Eligible Voters in a Primary Election: June 5, 2012 (22.47%)

** Not including statewide special elections and the June 3, 2008 bifurcated primary.*

California Voter Turnout vs. Other States: 2008 General Election

According to the United States Election Project at George Mason University, turnout among California's voting-eligible population of 60.9% ranked 36th among all states and the District of Columbia for the November 4, 2008 Presidential General Election.

Recent Voter Bills Signed into Law

During their recently concluded 2011-12 session, the Legislature enacted several significant bills aimed at eliminating barriers to voter participation. These bills include all of the following:

SB 35 (Padilla) Adds the California Health Benefit Exchange to the list of public assistance agencies required by the National Voter Registration Act of 1993 (NVRA) to provide voter registration opportunities. CH. 505, Statutes of 2012.

SB 183 (Correa) Provides that a voter's ballot will not be rejected if the voter writes or makes extra marks on it. CH. 739, Statutes of 2011.

SB 397 (Yee) Provides for online voter registration to begin prior to the completion of a new statewide voter registration database. CH. 561, Statutes of 2011.

AB 84 (Fong) Permits a new citizen, as defined, to register and vote at the office of, or at another location designated by, the county elections official at any time beginning on the 14th day before an election and ending at the close of polls on Election Day. CH. 186, Statutes of 2011.

AB 216 (Swanson) Permits county elections officials to contract with a consumer credit reporting agency or its licensees to obtain change-of-address data to update voter files. CH. 495, Statutes of 2012.

AB 461 (Bonilla) Provides that in the event of a manual recount, provisions of the law governing the counting of write-in votes shall be liberally construed to ensure that each ballot is counted if the intent of the voter can be determined, regardless of whether the voter has complied with the voting instructions (filled in the bubble). Similar to AB 503 (Block), listed below. CH. 189, Statutes of 2011.

AB 503 (Block) Similar to AB 461 (Bonilla) except this bill permits a recount prior to certification if the number of "under votes" and valid write-in votes exceeds the number of votes for the perceived "winner." CH. 190, Statutes of 2011.

AB 1343 (Fong) Requires a voter's name to be deleted from the permanent vote by mail voter list if he/she fails to return a vote-by-mail ballot for four consecutive statewide general elections, instead of two consecutive statewide general elections. CH. 191, Statutes of 2011.

AB 1436 (Feuer) Permits an eligible person to register to vote and vote at the office of the county elections official at any time, including on Election Day, as specified. Contingent upon the completion of a new statewide voter registration database. CH. 497, Statutes of 2012.

AB 1805 (Huffman) Conforms law regarding overseas and military voting with federal law and a model adopted by the Uniform State Law commission. Most significant

change permits children of overseas voters to register to vote at parents' last California residence. CH. 744, Statutes of 2012.

AB 2080 (Gordon) Deletes the requirement that a voter be ill or disabled to have a specified designee return their vote by mail ballot for them. CH. 501, Statutes of 2012.

Recent Voter Bills that Failed

Several other bills intended to eliminate barriers to voter participation either failed passage in the Legislature or were vetoed by the Governor. These bills include all of the following:

SB 88 (Yee) Would have provided phonetic translations of candidates' names on ballots in jurisdictions required to translate ballot materials into languages other than English, as specified. Vetoed.

SB 199 (Correa) and AB 2054 (Fong) Would have allowed a VBM voter to return his or her ballot to any polling place within the state, instead of being limited to polling places within the county of the elections official who issued the ballot. Both vetoed.

SB 205 (Correa) and AB 2058 (Pan) Would have prohibited any person, company, or other organization from agreeing to pay money or other valuable consideration on a per-affidavit basis to any person who assists another person to register to vote by receiving the completed affidavit of registration and would prohibit the receipt of this per-affidavit consideration. SB 205 was vetoed; AB 2058 failed passage in the Senate Public Safety Committee.

SB 348 (Correa) and AB 562 (Fong) Would have required vote by mail ballots that are postmarked on or before election day to be accepted if they are received within a specified number of days after the election. SB 348 failed passage in the Senate Appropriations Committee; AB 562 failed passage on the Assembly floor.

SB 1233 (Padilla) Would have required the circulating titles and summaries for state initiative and referendum petitions be translated into any language that the federal Voting Rights Act requires for individual counties. Vetoed.

AB 293 (Hill) Would have required elections officials to establish a free access system that allows a vote by mail voter to find out whether his or her ballot was counted and, if not, the reason why the ballot was not counted. Vetoed.

AB 477 (Valadao) Would have required overseas and military vote by mail ballots that are postmarked on or before election day to be accepted if they are received within a specified number of days after the election. Failed passage in the Senate Appropriations Committee.

AB 1814 (Eng) Would have required county elections officials to report to the Secretary of State on their compliance with various state and federal laws related to providing voters with language assistance. Failed passage in the Senate Appropriations Committee.

Overt Voter Suppression

In addition to legal and logistical barriers, California voters, and Orange County voters in particular, have also been subjected to efforts by, or on behalf of, candidates, campaigns, and other private interests to overtly suppress voter participation through intimidation, misinformation, and fraud. For instance:

The Orange County Poll Guards. In November, 1988, uniformed security guards were posted at polling places in predominately Latino neighborhoods by persons associated with the Orange County Republican Party. According to the Los Angeles Times, the guards, including some who asked voters for identification, carried signs in English and Spanish warning: “Noncitizens can’t vote.” The incident prompted an FBI investigation, a civil rights lawsuit wherein the defendants agreed to pay a \$400,000 settlement, as well as successful state legislation to prohibit such activity in the future.

The Tan Ngyuen Letter. Last year, former Republican congressional candidate Tan Ngyuen was sentenced to a year in federal prison following a conviction for lying about his knowledge of a 2006 letter sent to 14,000 registered Democrats with Latino surnames during his bid to unseat Democratic Congresswoman Loretta Sanchez. The letter, written in Spanish, said in part: “You are advised that if your residency in this country is illegal or you are an immigrant, voting in a federal election is a crime that could result in jail time, and you will be deported for voting without having a right to do so.” The letter went on to state: “Unlike Mexico, here there is no incentive to vote.”

Voter Registration Fraud. Each election year there seems to be new accusations of fraud related to persons who are paid on a per-affidavit basis to register voters – this year was no exception with media stories about such fraud once again occurring in California as well several other states.

County elections officials often receive complaints from voters who were re-registered with a political party without their permission. Besides changing party affiliations, names are forged, and people are duped into registering even if they are ineligible. According to press reports, the companies in charge of these registration drives have paid workers as much as \$8-\$10 for every completed voter registration card.

Between 1994 and 2010 the Secretary of State opened roughly 1,000 cases for voter registration fraud and altering of party affiliation. Of those, 99 were referred for prosecution resulting in 64 convictions. These recurring incidences were the impetus for SB 205 (Correa) and AB 2058 (Pan) as discussed above.

Additional Attachments

Attached you will find additional documents related to the subject of this hearing including:

- Historical voter registration and participation data for California (CA Secretary of State)
- State-by-state turnout data for the 2008 Presidential General Election (United States Election Project)
- Reports on Latino and Asian voter registration rates and California's youth vote (The California Civic Engagement Project: UC Davis Center for Regional Change)
- At Issue: Improving California's Democracy (Public Policy Institute of California)
- CRB Short Subjects; Election Policy Series. Voter Identification: A Brief Introduction (California Research Bureau)
- Submission of written testimony from the American Association of Retired Persons (AARP)