COUNTY OF LOS ANGELES
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June 17, 2002

TO: EACH SUPERVISOR
Chief Deputy/Chief of Staff

FROM: Conny B. McCormack, Registrar-Recorder/County Clerk

CALIFORNIA REGISTRARS ISSUE POSITION PAPER PREDICTING PROBLEMS IN FUTURE ELECTIONS - PROPOSE LEGISLATIVE SOLUTIONS

Registrars statewide experienced unprecedented problems administering the March 5, 2002 Primary Election[1]. Post-election analysis conducted by the California Association of Clerks and Election Officials (CACEO) determined the major culprit was a spate of complex, recently enacted state election laws that confuse pollworkers and voters alike and raise concerns that future elections may no longer be able to be conducted within an acceptable level of error.

This finding was reflected in a position paper recently issued by the CACEO (copy attached) that opens with the statement "elections in California are at risk of collapsing under the weight of their own complexity." The paper makes several recommendations for state legislative action that would simplify the election process, expand the pollworker base and stabilize polling sites. A committee of CACEO members, including myself, have been discussing this position paper in meetings with state legislators, civic leaders and the media in an effort to focus attention on the problems now inherent in election administration.

A write-up describing the CACEO position paper was featured in the most current issue of the national election administration newsletter *Election Administration Reports* (copy attached).

I hope that you will review the CACEO position paper which expands upon several of the issues contained in my recent report on the March 5, 2002 Primary Election requested by your Board entitled "Problems, Solutions and Resources Needed for Improvement." If you have questions, please call me.

Attachment

C: CAO

[1] Problems included pollworker recruitment and "no shows" impacting timely opening of polling places, mistakes issuing wrong ballots due to complex "Modified Closed Primary" rules, some eligible voters not listed on precinct rosters due to shortened voter registration deadline from 29 to 15 days before each election, high number/percentage of changes in assigned polling places due to redistricting, sample ballot printing/delivery delays and errors (and exponential cost increases) due to doubling the number of ballot combinations as a result of redistricting, etc.

ELECTION ADMINISTRATION REPORTS

• The Newsletter for Election Officials

Editor: Richard G. Smolka

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Washington focus. *In responding to questions before a Senate committee last week, Ralph Boyd, head of the Civil Rights Division, said the Justice Department was considering filing suit against five jurisdictions -- three in Florida, one in Tennessee, and one in Missouri, to seek compliance with the Voting Rights Act. Miami-Dade County, Fla. is charged with failure to provide adequate language assistance in Creole to persons of Haitian background. Miami-Dade plans to have the Creole language on its new electronic voting machines but must increase its Creole language assistance at the polls. Osceola County, Fla. is charged with similar failures among its Spanish speaking population.*

CALIFORNIA ELECTION OFFICIALS WARN ELECTIONS ARE COLLAPSING UNDER WEIGHT OF COMPLEXITY

The California Association of Clerks and Election Officials is mounting a campaign to warn that elections in California are "collapsing under the weight of their own complexity". The election officials are advising legislators, civic groups, and the general public that as a result of the complexity, even without a new and detailed federal law, they may no longer be able to conduct elections within an acceptable level of error.

The association, including chief election officials in major counties, charged that a proliferation of new laws affecting the administration of elections, overlaid upon an existing foundation of confusing and conflicting federal, state and local laws governing the manner in which elections are administered, will seriously compromise the integrity of elections in California.

Election officials reported experiencing severe problems in the administration of the March, 2002 election. They said elections have become too complex for the timely support of official and sample ballot printers, and far too complex for pollworkers to administer.

IN THIS ISSUE

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The election officials cite insufficient time periods to do their job; hundreds of ballot styles in a single county due to consolidated elections and overlapping districts; the number of ballot styles further complicated by the number of foreign language ballots required; and the burden placed on poll workers to ensure that eligible voters receive the correct ballot style.

The election officials cited as *recent* issues that have had a major impact:

- Reduction of the close of registration from 29 to 15 days before the election, reducing by half the time for data entry of last minute registration and production and dissemination of materials to the polls.

- The return to a partially closed primary for seven qualified political parties, and modification of criteria to vote, thereby increasing the complexity of ballot production and election administration.

- Newly drawn legislative districts that cross senate district lines, increasing the number of ballot types and the complexity and cost of elections.

- Elimination of eligibility requirements for Permanent Absentee Voters, increasing the workload in implementation stages, and for special elections that traditionally do not have a large number of absentee ballot requests.

- Decertification of Votomatic and Poll Star systems in use in many counties requiring these counties to analyze and acquire new voting systems and retrain voters and pollworkers.

The election officials also cited ongoing issues:

- Consolidation of city, school, and special district elections with state elections, dramatically increasing the number of ballot types and the complexity and cost of elections.

- Conduct of party central committee elections in statewide primary elections, increasing the number of candidates to be processed, and the complexity of ballot production and administration of elections by pollworkers.

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- Federal requirements for ballots and election materials to be prepared in languages other than English. Counties anticipate that this could rise as a result of the 2000 census. (Los Angeles County already is required to prepare ballots and election materials in seven languages).

- Moving the primary to March causing the preparatory period to overlap with the November general elections.

- Allowing school bond elections to be held on any Tuesday, resulting in elections being conducted one or two weeks apart with overlapping time frames for preparations.

They also point out that in the course of their duties election officials must interpret statutes governing all election procedures including initiative procedures, which have different rules for state, county, municipal, and district levels; special district elections that have different rules for the numerous varieties of districts ranging from ambulance districts to water districts; school district elections which have different rules for different types of school districts; and elections on measures, which also have varying requirements depending upon the type of jurisdiction and type of measure (i.e. requirements for a fire district measure are not the same as requirements for a school district measure; requirements for a special tax measure are different from requirements for a bond measure; and requirements for a two-thirds bond measure are different from requirements for a 55% bond measure).

The officials illustrate the impact of primary election law on ballot type by a county with 50 different versions of the ballot created by combinations of districts on the ballot, multiplied by seven versions for party and one nonpartisan version, creating a requirement for 400 different versions of the ballot. If a county is required by federal law to prepare ballots in as few as three foreign languages the original 50 versions of the ballot increase to 1,200 different versions.

California counties are required to print a sample ballot booklet to be sent to every residence at which a registered voter lives. Thus each of the 1,200 ballot forms, and the ballot booklets must be typeset, proofread, and corrected until perfect. Due to the complexity of printing ballot booklets and the elevated probability of error they say new printers are not interested in seeking state certification to print the official ballots, and the existing printers are questioning the feasibility of continuing to do so. The complexity of the ballot production and the lack of competition among printers increases the cost of ballots to counties and local jurisdictions.

The single greatest threat to elections, however, official say, is lack of volunteers to serve as pollworkers. Following training for the March, 2002 primary, many pollworkers chose to resign. Pollworkers must be able to differentiate between the need for a regular provisional ballot, (for which no identification is needed) and a fail-safe provisional ballot (for which specified ID is required); know who, from a detailed and specific list of criteria, is allowed to return a voter's voted ballot to the polls; and must update hourly a list of voters in the precinct printed in street address order to show which voters have voted thus far on election day. In addition, they must know when it is acceptable to challenge a voter, when to forego challenging voters, who may request or provide assistance to a voter, what constitutes electioneering, what activities are allowed by pollwatchers, campaigns, and members of the media, and how to assist voters whose names are not on the index.

The officials made several recommendations to the legislature to deal with these problems but recognized that some are not necessarily popular. Several recommendations are intended to shorten the ballot or simplify the election process. Others would expand the pollworker base, increase precinct size to 2,000, and close the schools on election day.

California Association of Clerks and Election Officials

California Election Officials Proclaim Need for Major Election Reform

Elections in California are at risk of collapsing under the weight of their own complexity. A proliferation of recent legislation affecting the administration of elections, overlaid upon an existing foundation of confusing and conflicting federal, state and local laws governing the manner in which elections are administered, has raised concern amongst California s election officials that they may no longer be able to conduct elections within an acceptable level of error, and therefore, the integrity of the voting franchise in the state will be seriously compromised.

Election officials experienced severe problems in the administration of the March 2002 Primary Election. The state s elections have become too complex for the timely support of official and sample ballot printers, and far too complex for pollworkers (who are volunteers recruited from a cross-section of the general public) to administer. Recent issues that have had major impacts on the administration of elections include:

- Extension of the close of registration from 29 days prior to the election to 15 days prior to the election, shortening by half the length of time for data entry of last minute voter registrations and production and dissemination of materials to the polls.
- The return to a (partially) closed primary for seven qualified political parties that require separate partisan primary elections to nominate candidates to the general election, increasing the complexity of ballot production and the administration of the election by pollworkers.
- Modification of criteria for eligibility to vote in partisan primary elections, increasing the complexity of ballot production and the administration of the election by pollworkers.
- Proposition 34/Senate Bill 34 requirements allowing statements of qualifications for state legislative candidates to be printed in the county sample ballot (as opposed to the state ballot pamphlet), increasing the number of statements translated, typeset and printed by counties, and increasing the complexity of county sample ballot production due to the partisan nature of these contests in primary elections.
- Newly redrawn legislative districts that do not nest assembly districts within senate districts, dramatically increasing the number of ballot types and the complexity and cost of elections.
- Elimination of criteria for eligibility as a Permanent Absentee Voter (which will eventually reduce workload for statewide elections, but causes an increase in workload in the implementation stages and for special elections which normally do not have a high number of absentee ballot requests).
- Decertification of the Votomatic and Pollstar voting systems in use in many California counties which requires election officials in affected counties to analyze and acquire new voting systems and retrain voters and pollworkers.

Ongoing issues affecting the conduct of elections in California include:

- Consolidation of city, school and special district elections with statewide elections, dramatically increasing the number of ballot types and the complexity and cost of elections.
- Party central committee elections held in conjunction with statewide primary elections, increasing the number of candidates to be processed and the complexity of ballot production and administration of the election by pollworkers.
- Federal requirements requiring voting materials to be prepared in languages other than English. Counties are anticipating for the upcoming November General Election an increase (as a result of the 2000 Census information) in the number of languages for which they will be required to print ballots and provide election materials.
- Federal requirements requiring voting materials and polling locations to be accessible to the elderly and the disabled, which requires counties to survey polling places for accessibility and reduces the number of potential polling sites.
- Moving the primary election to March, causing the preparatory period to overlap the November odd-year election.
- Allowing school bond elections to be held on any Tuesday, as opposed to being restricted to established election dates, resulting in elections being conducted one or two weeks apart with overlapping time frames for preparation.

In addition, in the course of their duties, county election officials must interpret statutes governing all election procedures including initiative procedures, which have different rules for state, county, municipal and district levels; special district elections, which have different rules for the numerous varieties of districts ranging from ambulance districts to water districts; school district elections, which again have different rules for different types of school districts; and elections on measures, which also have varying requirements depending on the type of jurisdiction and type of measure (i.e. requirements for a fire district measure are not the same as requirements for a school district measure; requirements for a special tax measure are different from requirements for a bond measure and requirements for a two-thirds bond measure are different from requirements for a 55% bond measure).

Problems experienced in the March 2002 Primary Election have convinced California election officials that elections in California are at risk unless dramatic legislative changes are made to the laws by which they are governed. Major problems were averted in the March 2002 Primary Election only because of the relatively low voter turnout. The following problems, which occurred to a limited extent in the gubernatorial election, are expected to become major problems in the presidential election in 2004, due to the historically higher voter turnout:

- Sample Ballots not received from the printers by counties in time for delivery to voters before the election, or for voters to use the Absentee Ballot applications included in the Sample Ballot booklets.
- Absentee Ballots not received from the printers by counties in time to be mailed to absentee voters (allowing sufficient time for voters to vote and return their ballots).
- Precinct Ballots not received by counties in time for delivery to the pollworkers to take to the polls by election day.
- Polls not open on time — or at all — because of a severe shortage of pollworkers to adequately staff precincts.
    - Pollworkers resign after attending training classes and learning of the complexity of the process.
    - Pollworkers who do serve on election day not adequately trained.
    - Replacement pollworkers pressed into service on short notice without any training at all.
    - Insufficient and untrained pollworkers who administer elections in an inconsistent and possibly illegal manner. These irregularities will call into question the outcome of elections that are won by narrow margins.

To avoid catastrophic election problems, California election officials unanimously agree that major steps must be taken to simplify California s election laws. It will take significant changes to put California elections back on a solid footing, and unfortunately, many of the issues proposed by election officials are not politically popular.

15 day Close of Registration

Legislation chaptered in 2000 extended the last day to register to be eligible to vote in an election from 29 days prior to the election to 15 days prior to the election. Extending the period for registration shortened the length of time available to prepare rosters and indexes in time to distribute to the polls. To meet the requirements of this legislation, election officials prepared supplemental indexes containing the names, addresses and political affiliations of voters who registered after the 29th day prior to the election. These supplemental indexes were either mailed or delivered to pollworkers. In some counties, pollworkers either didn t receive the supplemental indexes in time for the election or did not understand the purpose of these indexes. Due to the limited time available for the preparation of the supplemental indexes, the accuracy of the lists suffered.

By law, Absentee Ballots are available 29 days prior to the election, two weeks prior to the last day to register to vote in the election. This greatly complicated the conduct of the March primary election as absentee voters who re-registered during this period because they moved or changed political parties, requested new absentee ballots after re-registering. Systems in place to ensure that absentee voters do not vote more than once in an election were seriously taxed, and the reconciliation of ballots cast was far more complex and time-consuming.

The 15 day close significantly impacts another component of the system of checks and balances set in place to guard against voter fraud. There is insufficient time to enter the new registrations and produce and mail address verification postcards in time to receive address correction information from the post office. Therefore election officials are not able to update the information sent to the polls, allowing voters to register at false addresses and vote prior to any notification to election administrators that the addresses are not valid.

Finally, the 15 day close of registration compresses the time for testing ballot counting programs due to the unavailability of final registration totals. In order to compute percentages of ballots cast, ballot counting programs must have final registration figures entered as a key component. Because these totals cannot be compiled until registration closes and all registration data is entered into computers, the time available to test ballot counting programs is significantly compressed. The condensed time in which to adequately test ballot counting programs is a potential threat to the accurate tally of votes cast for all offices on the ballot.

California election officials recommend

- **Repeal of the 15 day close of registration and a return to the 29 day close of registration.**

Modified Primary Election

Rather than reverting to the closed primary election (as had historically been held in California) following the Supreme Court s reversal of California s Open (Blanket) Primary Election (Proposition 198), the legislature opted to modify the primary election. The modification allows voters not affiliated with a qualified political party to participate in the primary election of any political party that allows such participation. Adding to the complexity and confusion, parties are also allowed to exclude participation by unaffiliated voters in individual primary election contests (i.e. party central committee, presidential electors).

Prior to each primary election, the Secretary of State s Office queries the qualified political parties (currently seven in California) to determine which will allow participation by unaffiliated voters, and which contests, if any, will be excluded. This hybrid primary election is extremely complex to administer, and for most voting systems requires election officials to prepare and purchase separate ballots for unaffiliated voters participating in a partisan primary election. The added complexity inevitably leads to errors. It also confuses voters, both affiliated and unaffiliated, who do not understand why some voters are allowed a choice of political parties and others are not. Pollworkers find the modified primary election confusing to administer, and therefore it is not correctly administered in many polling places. New legislation passed in 2002 adds complexity by requiring pollworkers to record which party ballot is issued to unaffiliated voters.

The modified primary requires that election officials perform additional pre-election mailings to unaffiliated voters who are permanent absentee voters and those who reside in mailed ballot precincts, inquiring as to which, if any, of the participating political party ballots the voters prefer to receive in the primary election. Unaffiliated voters who received this questionnaire for the March 2002 Primary Election did not understand the options, and many either ignored the request, requested the ballot of a political party that did not allow participation or stated that they wanted to receive a nonpartisan ballot, thinking this would entitle them to a ballot containing all parties candidates from which to choose.

Despite concerted efforts by the Secretary of State and county election officials to publicize the changes, the modified primary election laws, continue to confuse voters and pollworkers alike.

California election officials recommend

- **Return to a closed primary election**

Number of Qualified Political Parties, Elected Central Committees

As a result of the reversal of Proposition 198, partisan primary elections must once again be conducted for seven qualified political parties and for nonpartisan offices. For many political parties, only one (or no) candidate qualifies for each of the partisan offices on the ballot. As detailed in the dialogue on Consolidations (see **Excessive Ballot Types - Super Consolidated Elections**), the number of political parties multiplies the number of ballot types and thus increases the complexity of ballot production and of the administration of the election by pollworkers. Counties must bear not only the additional workload of the complexity of the election but also the cost of conducting elections for partisan offices. Printing single or no-candidate ballots is a significant cost, with limited value. Voters complain when they receive a ballot containing a single (or no) choice for partisan offices.

In addition, each of the seven political parties elects a county central committee (a.k.a. county council) at the primary election. Due to the number of positions up for election for each political party, these offices significantly increase the numbers of candidates to be processed and therefore the workload of election officials. Each of the political parties can establish rules that determine the number of positions available on each central committee, candidate qualification requirements and ballot headings, subheadings and the title of the office. This results in different criteria for different political party central committee (county council) offices. As a further complication, some political parties do not allow unaffiliated voters to participate in central committee (county council) elections, while others do. Following different rules in determining candidacy and printing and issuing ballots makes the administration of these elections particularly difficult for election officials and pollworkers.

California election officials recommend

- **Uncontested partisan offices not be printed on the primary election ballot unless, as in judicial offices, there is a petition presented stating that a write-in campaign will be conducted for the office; or**
- **Minor parties nominate candidates for partisan offices by convention or caucus.**
- **County central committee/county council members be appointed by political parties; or**
- **All political parties be required to use the same rules for central committee/county council elections, including eligibility to vote on such offices.**

Excessive Ballot Types - Super Consolidated Elections

Beginning in the early 1980 s, legislation gradually allowed more and more local jurisdictions to consolidate their regular governing board elections with the statewide primary and general elections. The move to consolidate elections of local jurisdictions governing boards increased steadily over the years, as jurisdictions sought to reduce election costs and increase voter participation. The boundaries of these local jurisdictions, including cities (many of which elect by districts or wards), county boards of education, community college districts, school districts and special districts, overlap, creating numerous variations of the ballot, particularly when overlaid upon federal, state and county legislative districts. This creates a myriad of ballot types and requires segregation of voters residing in areas that comprise these unique ballot types. Also, elections for local jurisdictions are held simultaneously for multiple seats and attract large numbers of candidates, which dramatically increases workload during the nomination and ballot production periods. Voters are not only overwhelmed by lengthy ballots but are confused by the necessity to change polling locations resulting from local candidates and issues placed on statewide election ballots. Despite the fact that heavily consolidated elections are extremely difficult to administer, counties are prohibited from denying these consolidations unless the capacity of the voting system is exceeded by the consolidations.

To understand the full impact of the additional ballot types, one must look beyond just the issue of consolidation of local elections. If, within a county, 50 different versions of the ballot are created by the combinations of districts on the primary election ballot, the election official must produce these ***50 versions*** for seven political parties and nonpartisan, which multiplies the effect of consolidations and results in ***400 different versions*** of the ballot. If the county is designated as a multilingual county under the Federal Voting Rights Act, these 400 versions must be translated into the designated languages, all of which must be typeset, proofread, and corrected until perfect. If a county is required to print in three languages, ***the original 50 versions of the ballot increase to 1,200 different versions.***

While political party versions of the ballot are not a component of the general election, most cities and school and special districts have opted to consolidate with the general election. It is not unusual for relatively small counties to have in excess of one hundred versions of the ballot (prior to translation into required languages) in a consolidated general election. As mentioned previously, cities, school and special districts attract a large number of candidates due to the number of seats available for election. The increased number of candidates also results in an increased number of candidates statements of qualifications to be typeset, proofread, translated (if necessary) and printed in the county sample ballot pamphlet. Each different type of jurisdiction (charter and general law cities; county boards of education, college, unified, high, union, and elementary school districts; ambulance, fire, health care, water, and resource conservation districts, etc.) has different and conflicting statutes governing the administration and method of election.

The multitude of ballot types and political parties, and the proliferation of candidates (and thus statements of qualifications) and required languages, are overwhelming the state s approved ballot printers, who are no longer able to run lengthy print runs of a single version of the ballot. Due to the complexity of printing official ballots and the elevated probability of error and the high cost and visibility of errors, new printers are not interested in seeking state certification to produce official ballots, and the existing printers are questioning the feasibility of continuing to do so. For the March 2002 election, ballot printers had significant problems in producing official and sample ballots in the short time frames allowed under statute. The complexity of ballot production and the lack of competition increases the cost of ballots to counties and local jurisdictions.

California election officials recommend

- **Deconsolidating city, school and special district elections and establishing a local election date preferably in June or November of odd-numbered years; or**
- **Allowing election officials to deny consolidation based on complexity factors including the number of federal and state legislative districts within the county.**
- **Requiring governing boards to be appointed by County Boards of Supervisors or County Boards of Education for jurisdictions of 10,000 or fewer registered voters; or**
- **Using all mail ballot elections for jurisdictions of 10,000 or fewer registered voters.**

Polls and Pollworkers

The single greatest threat to the democratic process in California is the lack of volunteers to serve as pollworkers on election day. While election officials have proposals for enhancing the recruitment of pollworkers, unless the complexity of elections is reduced, volunteers will not be willing to serve. Following training classes for the March 2002 Primary Election, many pollworkers chose to resign rather than attempt to administer such a complicated election. In some instances county election officials were not able to fill the vacancies created by the resignations; in others instances there was simply not sufficient time prior to the election to adequately train newly recruited pollworkers. In order to attract and retain qualified, trained pollworkers, it is imperative that elections in California be simplified.

In addition to the complexity factors previously discussed, including knowing which voters are entitled to which ballots, pollworkers must be able to differentiate between the need for a regular provisional ballot (for which no identification is required) and a fail-safe provisional ballot (for which identification from a specific list of acceptable sources is required), know who (from a detailed and specific list of criteria) is allowed to return a voters voted ballot to the polls, and update hourly a list of voters in the precinct printed in street address order to show which voters have voted thus far on election day. These requirements are in addition to knowing when it is acceptable to challenge a voter, when to forego challenging of voters, who may request or provide assistance to a voter, what constitutes electioneering, what activities are allowed by pollwatchers, campaigns and members of the media, and how to assist voters whose names do not appear on the index.

Finding suitable locations for use as polling places is another problem facing California election officials. Several issues have impacted the ability to secure a sufficient number of polling places, including the need for accessibility to the disabled, reduction of class size in schools, which has placed classrooms in multi-use rooms and libraries formerly used as polling locations; and increased security and safety concerns which have eliminated military bases and threatens to eliminate schools as potential polling sites.

To simplify election procedures, California election officials recommend

- **Implementing the recommendations previously stated in conjunction with the 15 day close of registration, the modified primary election, superconsolidated elections and the number of political parties requiring partisan primary and central committee elections.**
- **Eliminating identification requirement for use of fail-safe provisional ballots.**
- **Eliminating restrictions on 3rd party returns of voted absentee ballots.**
- **Eliminating updating of posted indexes showing which voters have voted.**

To enhance pollworker recruitment, California election officials recommend

- **Requiring high schools to participate in student pollworker programs.**
- **Drafting state, county and city employees as pollworkers.**
- **Allowing pollworker duty in lieu of jury duty.**
- **Offering incentives for businesses that allow staff to work as pollworkers.**

To decrease the need for additional polling locations, California election officials recommend

- **Closing the schools on election day to allow multiple precincts at a single location (which will also alleviate safety/security concerns and allow pollworkers to float between precincts as necessary).**
- **Increasing precinct size to 2,000 voters particularly in light of the increased number of permanent absentee voters.**

In Conclusion

California s election officials are committed to administering elections to the best of their abilities within the confines of federal, state and local statutes. The issues outlined above are significant factors that complicate the administration of elections. In most cases, the complication of election administration was an unrecognized or unintended consequence of the legislation. Reversal of this trend will not be an easy task, nor one that will be universally popular. It is, however, a necessary one. In addition to reversing the existing complexity, it is imperative that future legislative proposals be thoroughly evaluated to determine the effect on the integrity of California elections.