



Government Finance & Administration Policy Committee Meeting
Via Zoom
Monday, August 3, 2020 | 10:00am – 12:00pm

Chair: Bruce Gibson, San Luis Obispo County
Vice Chair: Diane Burgis, Contra Costa County
Vice Chair: Chuck Washington, Riverside County

Agenda

- 10:00 am**
- I. Welcome and Introductions**
Bruce Gibson, San Luis Obispo County

 - II. Proposition 16 – Government Preferences (formerly ACA 5)**
Staff Presentation
Proponents Presentation
Opponents Presentation
Discussion
Vote

 - III. Proposition 17 – Elections: Disqualification of electors (formerly ACA 6)**
Staff Presentation
Proponents Presentation
Opponents Presentation
Discussion
Vote

 - IV. Proposition 18 – Elections: Voting Age (formerly ACA 4)**
Staff Presentation
Proponents Presentation
Opponents Presentation
Discussion
Vote
- 12:00 pm**
- V. Adjourn**

ATTACHMENTS

Proposition 16 – *Government Preferences (formerly ACA 5)*

Attachment One CSAC Memo: Proposition 16 Analysis

Attachment Two Proposition 16 Text

Proposition 17 – *Elections: Disqualification of electors (formerly ACA 6)*

Attachment Three CSAC Memo: Proposition 17 Analysis

Attachment Four Proposition 17 Text

Attachment Five ACA 6 Senate Committee Analysis

Proposition 18 – *Elections: Voting Age (formerly ACA 4)*

Attachment Six CSAC Memo: Proposition 18 Analysis

Attachment Seven Proposition 18 Text

Attachment Eight ACA 4 Senate Committee Analysis



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EXECUTIVE DIRECTOR

Graham Knaus

July 28, 2020

To: CSAC Government Finance & Administration Committee

From: Geoff Neill, CSAC Legislative Representative
Ada Waelder, CSAC Legislative Analyst

Re: Proposition 16 – Government Preferences – ACTION ITEM

Recommendation

CSAC Staff is recommending the committee forward a recommendation that the Board of Directors *support* this measure. The Government Finance and Administration policy committee may recommend a position to the CSAC Executive Committee and Board of Directors of support, oppose, neutral, or it may recommend CSAC take no position.

Summary

Proposition 16, approved by the Legislature as ACA 5 (Weber), would repeal Section 31 of Article I of the California Constitution, which prohibits the State of California, including counties and other local agencies, from “discriminat[ing] against, or grant[ing] preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.”

Background

Current Law

As stated above, Section 31 of Article I of the California Constitution prohibits counties and other government entities from granting preferential treatment based on race, sex, color, ethnicity, or national origin in matters of public employment or contracting. This section was adopted in 1996 with the passage of Proposition 209.

Article 14 of the U. S. Constitution prohibits states from making or enforcing laws that deny equal protection of the laws to any person within its jurisdiction. A series of court cases have found that equal protection does not prohibit the use of identifying characteristics such as race or gender when doing so furthers a compelling interest, for instance in “obtaining the educational benefits that flow from a diverse student body” (*Grutter v. Bollinger*). However, it does prohibit the use of quotas in these decisions, so the decisions must be individualized, narrowly tailored, and cannot be decisive (*Regents of the University of California v. Bakke* and *Gratz v. Bollinger*).

Changes under Ballot Measure

Proposition 16, if passed by voters, would not in and of itself implement any changes to state or local hiring, contracting practices, or public education. It would, however, repeal the prohibition against government entities using race, sex, color, ethnicity, or national origin in those decisions.

Notably, permission to use these factors would not be unfettered, as made clear even in the landmark Supreme Court decision upholding affirmative action, *Regents of the University of California v. Bakke*. At the time of the case, public schools in the United States had been desegregated, but many university programs, especially graduate programs for specialties such as medicine and law, remained almost entirely comprised of white students. In response, and in recognition of the history of discrimination, poverty, and inferior schools that led to the difficulty minorities faced in competing in the admissions process, many schools implemented affirmative action programs. The UC Davis School of Medicine established a program for applicants that indicated they wished to be considered disadvantaged, and set aside 16 percent of its spots for those applicants. This was the program at issue in the *Bakke* case.

The decision of the court found that diversity in the classroom was a compelling state interest and that race could be used as one of several factors in admission, but that quotas were themselves discriminatory. In one of several concurring opinions, other justices noted that “governmental preference has not been a stranger to our legal life. We see it in veterans' preferences. We see it in the aid-to-the-handicapped programs... In order to get beyond racism, we must first take account of race.”

These findings, that factors such as race can be used as one factor in government decision making in furtherance of a compelling public interest, but not a decisive factor without individual consideration, were affirmed and clarified by later cases. Therefore, if Proposition 16 were to pass, counties would be limited to programs that fall within the bounds permitted by the U. S. Constitution and federal law.

Policy Considerations

Existing CSAC Policy

The California County Platform states in Chapter 1:

“Local control is the chief principle underlying the California County Platform.”

Chapter 1, Section 1 goes on to clarify that fundamental principle:

“Local control calls for the recognition of the differences that exist throughout the state and holds that local government should have the flexibility to develop systems by which services are provided and problems are resolved...”

“Not only does local control fortify counties' position that the state must recognize local differences, it also allows for individual counties to adopt alternatives that might not be acceptable to other counties –provided that these alternatives are not imposed on those who do not wish them.

“Counties adopt the principle of local control as the policy cornerstone of CSAC.”

Proposition 16 would remove a prohibition on considering factors such as race and gender in local hiring and contracting decisions from the California Constitution, thus increasing local control.

Staff Contact

Please contact Geoff Neill at gneill@counties.org or Ada Waelder at awaelder@counties.org.

Resources

- 1) [Full text of ACA 5 \(Proposition 16\)](#)

RESOLUTION CHAPTER 23

Assembly Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by repealing Section 31 of Article I thereof, relating to government preferences.

LEGISLATIVE COUNSEL'S DIGEST

ACA 5, Weber. Government preferences.

The California Constitution, pursuant to provisions enacted by the initiative Proposition 209 in 1996, prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. The California Constitution defines the state for these purposes to include the state, any city, county, public university system, community college district, school district, special district, or any other political subdivision or governmental instrumentality of, or within, the state.

This measure would repeal these provisions. The measure would also make a statement of legislative findings in this regard.

WHEREAS, Equal opportunity is deeply rooted in the American ideals of fairness, justice, and equality. Programs to meet the goals of equal opportunity seek to realize these basic values. Equal opportunity not only helps individuals, but also helps communities in need and benefits our larger society. California's equal opportunity program was upended by the passage of Proposition 209 in 1996; and

WHEREAS, Proposition 209, entitled the California Civil Rights Initiative, amended Article I of the California Constitution to prohibit race- and gender-conscious remedies to rectify the underutilization of women and people of color in public employment, as well as public contracting and education; and

WHEREAS, Proposition 209 invalidated a series of laws that had been enacted by the California Legislature over the 20 years prior to it that required state agencies to eliminate traditional patterns of segregation and exclusion in the workforce, to increase

the representation of women and minorities in the state service by identifying jobs for which their employment was underrepresented due to discrimination, and to develop action plans to remedy such underrepresentation without effectuating quota systems; and

WHEREAS, Proposition 209 also overshadowed other landmark civil rights and antidiscrimination laws. In 1959, after a 37-year campaign by labor and civil rights groups, the Unruh Civil Rights Act was passed, which was the forerunner of the Civil Rights Act of 1964; and

WHEREAS, As a result of the passage of Proposition 209, women and people of color continue to face discrimination and disparity in opportunities to participate in numerous forms of association and work that are crucial to the development of talents and capabilities that enable people to contribute meaningfully to, and benefit from, the collective possibilities of national life; and

WHEREAS, The State of California has provided employment opportunities for people of color and women of all races. However, lingering, and even increasing, disparity still exists, particularly for Asian Americans, Pacific Islanders, Black Americans, Latino Americans, Native Americans, and women, and should be rectified; and

WHEREAS, Proposition 209 has impeded California's continuing interest in supporting the equal participation of women in the workforce and in public works projects, in addressing the historical and present manifestations of gender bias, and in promulgating policies to enforce antidiscrimination in the workplace and on public projects; and

WHEREAS, In the wake of Proposition 209, California saw stark workforce diversity reductions for people of color and women in public contracting and in public education. Studies show that more diverse workforces perform better financially and are significantly more productive and focused; and

WHEREAS, Since the passage of Proposition 209, the state's minority-owned and women-owned business enterprise programs have been decimated. A 2016 study conservatively estimates that the implementation of Proposition 209 cost women and people of color over \$1,000,000,000 annually in lost contract awards. Most procurement and subcontracting processes remain effectively closed to these groups due to the changes brought on by Proposition 209; and

WHEREAS, Women are vastly underrepresented among firms receiving public contracts and the dollars awarded to certified women-owned business enterprises fell by roughly 40 percent, compared to levels before Proposition 209. In addition, only one-third of certified minority business enterprises in California's transportation construction industry are still in operation today, compared to 20 years ago; and

WHEREAS, Women, particularly women of color, continue to face unequal pay for equal work. White women are paid 80 cents to every dollar paid to white men doing the same work. Black women are paid 60 cents for every dollar paid to white men doing the same work and would theoretically have to work an extra seven months every year to overcome that differential. This persistent gender wage gap continues to harm women, their families, and communities; and

WHEREAS, Despite a booming economy with almost full employment, a persistent racial wealth gap remains rooted in income inequality. Improving minority access to educational and labor market opportunity reduces the wealth gap and strengthens the economy; and

WHEREAS, Proposition 209 has had a devastating impact on minority equal opportunity and access to California's publicly funded institutions of higher education. This violates the spirit of the California Master Plan for Higher Education by making it more difficult for many students to obtain an affordable and accessible high quality public education. While federal law allows schools to use race as a factor when making admissions decisions, California universities are prohibited by Proposition 209 from engaging in targeted outreach and extra efforts to matriculate high-performing minority students. This reduces the graduation rates of students of color and, in turn, contributes to the diminution of the "pipeline" of candidates of color for faculty positions; and

WHEREAS, Since the passage of Proposition 209, diversity within public educational institutions has been stymied. Proposition 209 instigated a dramatic change in admissions policy at the University of California, with underrepresented group enrollment at the Berkeley and Los Angeles campuses of the University of California immediately falling by more than 60 percent and systemwide underrepresented group enrollment falling by at least 12 percent. Underrepresented group high school graduates faced

substantial long-term declines in educational and employment outcomes as a result of these changes; and

WHEREAS, Among California high school graduates who apply to the University of California, passage of Proposition 209 has led to a decreased likelihood of earning a college degree within six years, a decreased likelihood of ever earning a graduate degree, and long-run declines in average wages and the likelihood of earning high wages measured by California standards. The University of California has never recovered the same level of diversity that it had before the loss of affirmative action nearly 20 years ago, a level that, at the time, was widely considered to be inadequate to meet the needs of the state and its young people because it did not achieve parity with the state's ethnic demographics; and

WHEREAS, The importance of diversity in educational settings cannot be overstated. The Supreme Court of the United States outlined the benefits that arise from diversity, as follows, "the destruction of stereotypes, the promotion of cross-racial understanding, the preparation of a student body for an increasingly diverse workforce and society, and the cultivation of a set of leaders with legitimacy in the eyes of the citizenry"; and

WHEREAS, Federal courts continue to reaffirm the value of diversity in favor of race conscious admissions, as exemplified by United States District Judge Allison D. Burroughs who stated, "race conscious admissions programs that survive strict scrutiny have an important place in society and help ensure that colleges and universities can offer a diverse atmosphere that fosters learning, improves scholarship, and encourages mutual respect and understanding. Further, Judge Burroughs recognized that there are no race-neutral alternatives that would allow a university to achieve an adequately diverse student body while still perpetuating its standards for academic and other forms of excellence; and

WHEREAS, It is the intent of the Legislature that California remedy discrimination against, and underrepresentation of, certain disadvantaged groups in a manner consistent with the United States Constitution and allow gender, racial, and ethnic diversity to be considered among the factors used to decide college admissions and hiring and contracting by government institutions; and

WHEREAS, It is further the intent of the Legislature that California transcend a legacy of unequal treatment of marginalized

groups and promote fairness and equal citizenship by affording the members of marginalized groups a fair and full opportunity to be integrated into state public institutions that advance upward mobility, pay equity, and racial wealth gap reduction; now, therefore, be it

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 31 of Article I thereof is repealed.



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EXECUTIVE DIRECTOR

Graham Knaus

July 28, 2020

To: CSAC Government Finance & Administration Committee

From: Geoff Neill, CSAC Legislative Representative
Ada Waelder, CSAC Legislative Analyst

Re: Proposition 17 – Elections: Disqualification of electors – ACTION ITEM

Recommendation

CSAC Staff is recommending the committee forward a recommendation that the Board of Directors *support* this measure. The Government Finance and Administration policy committee may recommend a position to the CSAC Executive Committee and Board of Directors of support, oppose, neutral, or it may recommend CSAC take no position.

Summary

ACA 6 (McCarty) is a constitutional amendment that was passed by the Legislature with a supermajority vote in both chambers, and then became Proposition 17. The measure would restore the right to vote to a person who is on parole. According to the [California Department of Corrections and Rehabilitation](#), there are currently over 50,000 Californians on parole.

Background

Current Law

The California Constitution allows any resident of California who is a U.S. citizen, at least 18 years old, and not imprisoned or on parole for the conviction of a felony to vote. However, a person who is on probation for conviction of a felony is permitted to vote. County election officials are required by law to cancel the voter registration of those convicted of a felony until they complete parole, at which point individuals may re-register to vote.

Changes under Ballot Measure

Proposition 17 would amend the California Constitution to remove the two clauses that prevent those on parole for a felony conviction from voting. This would restore the right to vote to those convicted of felonies when they have finished serving their term of confinement to prison.

2011 Realignment

In 2011, the California Legislature and Governor Brown passed sweeping public safety legislation that shifted responsibility for certain populations of offenders from the state to counties. The changes included a shift from state prison to county jails and from parole to probation for non-violent, non-serious, and non-sex felons. However, the changes created new categories of offenders and threw into doubt whether these offenders, including those serving felony sentences in county jail, those sentenced to mandatory supervision (split

sentences), and those under post-release community supervision (PRCS), were eligible to vote. Those questions were taken to the courts, most notably in *Scott v. Bowen*.

In 2016, Governor Jerry Brown signed AB 2466 (Weber), reflecting in statute the decision in *Scott v. Bowen*, which restored the right to vote for the three categories of offenders listed above. The court concluded that restoring voting rights of persons under PRCS and or mandatory supervision was consistent with the Realignment policy goal to promote reintegration of low-level offenders back into the community. In addition, the court relied upon the long-held principle in California law requiring courts "to give every reasonable presumption in favor of the right of people to vote." This decision and the subsequent legislation standardized and clarified practices throughout the state to ensure that felons under the formal jurisdiction of county jails and probation departments are able to vote.

Racial Disparities in the Prison Population

People of color, and especially Black men, are overrepresented in prison populations across the United States. In California, 3 of every 4 men in prison are Black, Latino, or Asian. Black Californians, who make up 6.5 percent of the state's total population, represent 28 percent of those who cannot vote because of felony disenfranchisement.

Many states instituted broad felony disenfranchisement provisions after the Civil War, when Black men were given the right to vote and property tests and other voting restrictions were eliminated. A historical analysis by authors Jeff Manza and Christopher Uggen found "[w]hen African Americans [made] up a larger proportion of a state's prison population, that state [was] significantly more likely to adopt or extend felon disenfranchisement." Those laws persist today.

However, some studies, including one by Manza and Uggen, show a relationship between civic reintegration, like voting, and a reduction in subsequent crime. A separate study by the Florida Parole Commission found that of 30,672 people convicted of a felony who had their right to vote restored, only 11.1% reoffended within the first year of release during the study. While it is unlikely that this is a result of voting alone, it may play a role in allowing those convicted of felonies to be law-abiding community members.

De Facto Disenfranchisement

California is one of only three states in the country that denies the right to vote to people on parole, but allows those on probation to vote. Studies have shown that few people, including elections officials and those serving sentences, understand the distinction between parole and probation. This leaves ample opportunity for eligible voters to be prevented from voting, or refrain out of fear of breaking the law, a phenomenon termed "de facto disenfranchisement." Allowing people to vote as soon as they are released from prison, regardless of the term used, will help eliminate this confusion and simplify election administration. Eighteen states already restore the right to upon release from prison.

Fiscal Impact

There is no significant fiscal impact for this measure to be implemented.

Policy Considerations

Existing CSAC Policy

The California County Platform, CSAC's adopted statement of the basic policies of concern and interest to California's counties, say the following:

Counties support efficient and accessible voting for all. —Chapter 5 – Government Operations

The most cost-effective method of rehabilitating convicted persons is the least restrictive alternative that is close to the individual's community and should be encouraged where possible.

—Chapter 2 – Administration of Justice

Staff Contact

Please contact Geoff Neill at gneill@counties.org or Ada Waelder at awaelder@counties.org.

Resources

- 1) [Full text of Ballot Initiative](#)
- 2) [Senate Elections and Constitutional Amendments Committee Analysis](#)

RESOLUTION CHAPTER 24

Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 2 and 4 of Article II thereof, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, McCarty. Elections: disqualification of electors.

The California Constitution requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. Existing statutory law, for purposes of determining who is entitled to register to vote, defines imprisoned as currently serving a state or federal prison sentence.

This measure would instead direct the Legislature to provide for the disqualification of electors who are serving a state or federal prison sentence for the conviction of a felony. This measure would also delete the requirement that the Legislature provide for the disqualification of electors while on parole for the conviction of a felony. The measure would provide for the restoration of voting rights upon completion of the prison term.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—That Section 2 of Article II thereof is amended to read:

SEC. 2. (a) A United States citizen 18 years of age and resident in this State may vote.

(b) An elector disqualified from voting while serving a state or federal prison term, as described in Section 4, shall have their right to vote restored upon the completion of their prison term.

Second—That Section 4 of Article II thereof is amended to read:

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors

while mentally incompetent or serving a state or federal prison term for the conviction of a felony.

**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Thomas Umberg, Chair
2019 - 2020 Regular

Bill No: ACA 6 **Hearing Date:** 6/18/20
Author: McCarty, et al.
Version: 6/12/19
Urgency: **Fiscal:** Yes
Consultant: Scott Matsumoto

Subject: Elections: disqualification of electors.

DIGEST

This measure, subject to voter approval, permits an otherwise eligible person who is on parole for the conviction of a felony to register to vote and to vote.

ANALYSIS

Existing law:

- 1) Permits a person who is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election, to register to vote.
- 2) Requires the Legislature to provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony.
- 3) Permits a person who is a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 16 years of age, to pre-register to vote.
- 4) Defines the following terms described above:
 - a) "Imprisoned" to mean currently serving a state or federal prison sentence.
 - b) "Parole" to mean a term of supervision by the Department of Corrections and Rehabilitation.
 - c) Provides that "conviction" does not include a juvenile adjudication made pursuant existing law.
- 5) Requires the county elections official to cancel a person's affidavit of registration upon proof that the person is presently imprisoned or on parole for the conviction of a felony, as specified.

This measure:

- 1) Deletes a provision of the California Constitution that requires the Legislature to provide for the disqualification of electors while on parole for the conviction of a felony.
- 2) Provides that an elector disqualified from voting while serving a state or federal prison term shall have their right to vote restored upon the completion of their prison term.
- 3) Makes other technical and conforming changes.

BACKGROUND

California's Disenfranchisement Laws. Article II, Section 4 of the California Constitution states that "[the] Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony." Elections Code Section 2101 is the statute that implements Article II, Section 4 of the California Constitution. Section 2101 states that "[a] person entitled to register to vote shall be a United States citizen, a resident of California, not imprisoned or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election." As a result, under California law, any person who is imprisoned or on *parole* for the conviction of a felony is prohibited from voting and elections officials are required to cancel the voter registrations of such individuals. However, a person who is on *probation* for conviction of a felony is permitted to vote. Once an individual completes parole, then their right to vote is restored and they can re-register to vote and subsequently vote.

Initiative Effort. In 2017, Initiate Justice proposed an initiative constitutional amendment entitled, "Eliminates Restrictions on Voting by Felons in Prison or on Parole. Initiative Constitutional Amendment and Statute." This proposed measure, also known as "The Voting Restoration and Democracy Act of 2018," sought to amend the California Constitution and eliminate existing restrictions on pre-registering to vote, registering to vote, and voting by persons while they are in prison or on parole for the conviction of a felony. Under the California Constitution, in order to qualify for the ballot, a constitutional amendment petition must contain signatures equal to 8 percent of the most recent gubernatorial vote (585,407 signatures were required at the time). The ballot measure did not obtain the necessary signatures and failed to qualify for the ballot.

Other States. According to the National Conference of State Legislatures (NCSL), felony disenfranchisement laws vary from state-to-state.

In Maine and Vermont, felons never lose their right to vote, even while they are incarcerated. In 16 states and the District of Columbia, felons lose their voting rights only while incarcerated and receive automatic restoration of their voting rights upon release.

In 21 states, felons lose their voting rights during incarceration and for a period of time following incarceration. This is typically while on parole and/or probation. Voting rights

are automatically restored following this time period. It should be noted that, depending on the state, former felons may have to pay any outstanding fines, fees, or restitution before their voting rights are restored.

In 11 states, felons lose their voting rights indefinitely for some crimes, require a governor's pardon in order for their voting rights to be restored, face an additional waiting period after completion of sentence (including parole and probation), or require some other type of action before voting rights can be restored.

Additionally, according to NCSL, states that provide for "automatic restoration" of voting rights does not mean that voter registration is automatic. Typically, prison officials inform election officials that an individual's rights have been restored and the person is responsible for re-registering through normal processes. Some states, like California, require that voter registration information be provided to formerly incarcerated people.

Recent Action in Other States. NCSL also notes that the general trend has been toward reinstating the right to vote at some point. Between 1996 and 2008, 28 states passed new laws on felon voting rights:

- Seven repealed lifetime disenfranchisement laws, at least for some ex-offenders.
- Two gave probationers the right to vote.
- Seven improved data-sharing procedures among state agencies.
- Nine passed requirements that ex-offenders be given information and/or assistance in regaining their voting rights at the time they complete their sentence.
- Twelve simplified the process for regaining voting rights, for instance, by eliminating a waiting period or streamlining the paperwork process.

More recently, in April 2018, New York Governor Andrew Cuomo issued an executive order removing the restrictions on parolees' right to vote.

In November 2018, a citizen initiated constitutional amendment, known as Amendment 4, in Florida restored the right to vote for those with prior felony convictions, with certain exceptions. Subsequently, in 2019, Florida's Legislature passed and the Governor signed SB 7066. SB 7066 defined "completion of sentence" to include, among other provisions, that full payment of any ordered restitution and the full payment of any ordered fines, fees or costs was required before being a person's voting rights are restored.

In May 2019, Colorado enacted HB 1266 giving voting rights to individuals on parole, putting it in the category of states that only disenfranchise those who are in prison.

Also, in May 2019, Nevada Governor Steve Sisolak signed a bill, AB 431, permitting felons in Nevada the right to vote after being released from prison. Previously, first-time, non-violent offenders could have rights restored upon completion of sentence but

those that had committed a violent crime or two or more felonies had to petition a court to grant the restoration of civil rights.

Initiate Justice Survey. In March 2019, Initiate Justice released a report that found there are approximately 162,000 citizens in California (110,000 in state prison, 12,000 in federal prison, and 40,000 on parole) that are currently incarcerated in prisons or on parole for the conviction of a felony that do not have the right to vote. In 2017, Initiate Justice launched a campaign to restore voting rights to California citizens currently incarcerated in state prison or on parole. As part of their campaign, Initiate Justice conducted a survey of its 4,000+ incarcerated members in 35 California state prisons and members on parole. The survey sought to provide a better understanding on whether individuals incarcerated and on parole wanted to vote, the political issues important to them, ways in which they are currently civically engaged despite being denied the right to vote, and their insights on the types of public investments that could prevent incarceration and promote public safety. The survey received 1,085 responses and found that only 37% voted before incarceration and 98% said they would vote if they could because they want to have a voice in society, feel more connected and contribute positively to their community, and have a say in the political system.

COMMENTS

- 1) According to the author: ACA 6 places a constitutional amendment on the ballot that will grant individuals on parole the opportunity to vote. People on parole are our colleagues, neighbors, and family members. They work in our communities, pay taxes, send their kids to school, and strive to make California a better place for all residents. In order to fully reintegrate folks returning to our communities, we must restore their right to vote. This is not a partisan issue but rather an issue of having a just and inclusive democracy in this state. States that allow people on parole to vote have lower rates of recidivism; giving people on parole the right to vote gives them a stake in their communities and a voice in the issues that impact their daily lives.
- 2) Argument in Support. In a letter co-sponsoring ACA 6, Initiate Justice stated, in part, the following:

Voting is a fundamental right of citizenship. ACA 6 will amend the California Constitution to ensure that Californians on parole can fully participate in our democracy. Giving people returning home from prison access to civic participation is one of the most effective ways to assure their successful reintegration home. Blocking people on parole from voting means our neighbors who are working, paying taxes, and raising families in this state are deprived of the ability to have a say in the policies and representatives who shape their daily lives.

- 3) Argument in Opposition. In a letter opposing ACA 6, the Election Integrity Project California, Inc. stated, in part, the following:

While on parole, the individual's liberties, such as movement, association, activities and even ownership of certain items are still heavily restricted and regularly monitored by the system. Any misstep results in immediate re-incarceration. In other words, an individual on parole has not regained the full

trust of the society at large, nor the privilege to participate as a full member of that society.

It is argued that restoring voting rights during parole may serve to give parolees a sense of participation and belonging, and thus reduce recidivism. There is NO evidence from which to draw that conclusion. In fact, it is counter-intuitive. A period of parole gives the former criminal powerful reminders of what true liberty is by withholding just enough of it to incentivize further appropriate behavior so as to earn the rights just beyond the fingertips.

RELATED/PRIOR LEGISLATION

AB 646 (McCarty) of 2019, contains the implementing legislation for ACA 6. AB 646 is pending in Senate Rules.

AB 2466 (Weber), Chapter 787, Statutes of 2016, conformed state law to a Superior Court ruling in *Scott v. Bowen*, in which the court found that individuals on Post-Release Community Supervision and mandatory supervision are eligible to vote under Article II, Section 2 of the California Constitution, as specified.

PRIOR ACTION

Assembly Floor:	54 - 19
Assembly Appropriations Committee:	12 - 3
Assembly Elections and Redistricting Committee:	6 - 1

POSITIONS

Sponsor: #Cut50 (co-sponsor)
 All of Us or None (co-sponsor)
 American Civil Liberties Union of California (co-sponsor)
 Anti-Recidivism Coalition (co-sponsor)
 Californians United for a Responsible Budget (co-sponsor)
 Initiate Justice (co-sponsor)
 League of Women Voters of California (co-sponsor)
 Legal Services for Prisoners with Children (co-sponsor)
 People Over Profits San Diego (co-sponsor)
 Secretary of State Alex Padilla (co-sponsor)
 Vote Allies (co-sponsor)
 White People 4 Black Lives (co-sponsor)

Support: A New Path
 A New Way of Life Re-entry Project
 Alliance for Boys and Men of Color
 American Friends Service Committee
 American Probation and Parole Association
 Anti-Defamation League
 Asian Americans Advancing Justice – California
 Asian Prisoner Support Committee

Bay Rising
Bend the Arc: Jewish Action
Brennan Center for Justice
California Attorneys for Criminal Justice
California Calls
California Coalition for Women Prisoners
California Common Cause
Californians for Safety and Justice
California League of Conservation Voters
California Public Defenders Association
California Voices for Progress
Center for Employment Opportunities
Center on Juvenile and Criminal Justice
Change Begins With ME
Change for Justice
City and County of San Francisco
City of Los Angeles
Clergy & Laity United for Economic Justice
Cloverdale Indivisible
Community Coalition for Substance Abuse Prevention and Treatment
Community Housing Partnership
Conference of California Bar Associations
Council on American-Islamic Relations, California
County of Los Angeles Board of Supervisors
Courage Campaign
Criminal Justice Clinic of UC Irvine School of Law
Democratic Party of the San Fernando Valley
Democratic Woman's Club of San Diego County
Demos
East Bay Community Law Center
Ella Baker Center for Human Rights
Fair Chance Project
FairVote California
Feminists in Action Los Angeles
Friends Committee on Legislation of California
Homeboy Industries
Homie Up
Human Impact Partners
Immigrant Legal Resource Center
Indivisible CA-43
Indivisible CA: StateStrong
Indivisible East Bay
Indivisible Marin
Indivisible Peninsula/CA-14
Indivisible San Diego
Indivisible Sausalito
Indivisible Stanislaus
Indivisible South Bay – LA
Indivisible Ventura
Indivisibles of Sherman Oaks

Insight Center for Community Economic Development
Interfaith Council of Contra Costa County
Justice LA
Law Enforcement Action Partnership
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
LitLab
Mi Familia Vota
National Association of Social Work, California Chapter
National Center for Youth Law
National Women's Political Caucus, Sacramento Chapter
New Jersey Institute for Social Justice
Our Revolution Long Beach
Overpass Light Brigade – San Diego
Pacific Beach Democratic Club
Pasadenans Empowering Parent Participation in Education Governance
Peace and Freedom Party of California
Peace Resource Center of San Diego
Prisoner Advocacy Network
Project Rebound, California State University Fullerton
Project Rebound, California State University Sacramento
Public Health Justice Collective
Resistance Northridge-Indivisible
Re:Store Justice
Right2Vote Campaign
Riverside All of Us of None
Rock the Vote
Root & Rebound
Rubicon Programs
RYSE Center
San Francisco Financial Justice Project
San Francisco Public Defender's Office
Secure Democracy
Smart Justice California
Showing Up for Racial Justice at Sacred Heart
Showing Up for Racial Justice Bay Area
Showing Up for Racial Justice Contra Costa County
Showing Up for Racial Justice Marin
Showing Up for Racial Justice Santa Barbara
Sister Warriors Freedom Coalition
SpeakOut
STAND—White Men for Racial, Economic and Gender Justice
Starting Over, Inc.
Stonewall Democratic Club
Students Overcoming Adversity and Recidivism
Terps for Bay Area Resistance
Tides Advocacy
Time for Change Foundation
Together We Will/Indivisible – Los Gatos
Torrey Pines Democratic Club
Transforming Justice OC

Tutors for Incarcerated Individuals – Tutors for Youth
UnCommon Law
University of California Student Association
University Professional and Technical Employees CWA Local 9119
Vashon-Maury Showing Up for Racial Justice
Voice of the Experienced
W. Haywood Burns Institute
We the People – San Diego
Women’s Building of San Francisco
Youth Alive!

Oppose: Election Integrity Project California, Inc.

-- END --



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Graham Knaus

July 28, 2020

To: CSAC Government Finance & Administration Committee

From: Geoff Neill, CSAC Legislative Representative
Ada Waelder, CSAC Legislative Analyst

Re: Proposition 18 – Elections: Voting Age – ACTION ITEM

Recommendation

CSAC Staff is recommending the committee forward a recommendation that the Board of Directors *support* this measure. The Government Finance and Administration policy committee may recommend a position to the CSAC Executive Committee and Board of Directors of support, oppose, neutral, or it may recommend CSAC take no position.

Summary

ACA 4 (Mullin) is a constitutional amendment that was passed by the Legislature before becoming Proposition 17. The measure would allow a 17-year-old who will be 18 by the time of the next general election to vote at any primary or special election that occurs before the next general election. The measure was first introduced by Assembly Member Kevin Mullin's father, Assembly Member Gene Mullin, in 2004.

Background

Current Law

The California Constitution allows any resident of California who is a U.S. citizen, at least 18 years old, and not imprisoned or on parole for the conviction of a felony to vote.

Changes under Ballot Measure

Proposition 18 would add a clause to the state Constitution specifying that a California resident who will be 18 by the next General Election and who is otherwise eligible to vote may vote in any primary or special election leading up to that General Election. This will allow first time youth voters to fully participate in the democratic process by having influence over which candidates qualify for the General Election ballot. Currently, 23 states and the District of Columbia have similar laws.

The California Civic Engagement Project found that in California's 2020 primary election, 14.5 percent of eligible voters were between the ages of 18 and 24, but voters in this age range were only 6 percent of actual turnout. Because many 17-year-olds are still in high school, allowing them to participate in primary elections while they are taking classes on civic engagement could increase turnout, and studies have shown that once a person votes in an election they are more likely to do so again.

The measure would also narrow the gap for some voters between when they proactively pre-register to vote, which they are allowed to do at age 16, and when they are first eligible to vote.

Consistent with Federal Law

The 26th Amendment to the United States Constitution grants and protects the right for citizens 18 years and older to vote. According to the California Assembly Committee on Elections and Redistricting, “[b]ecause the U. S. Constitution only addresses abridging the right to vote and this measure expands voting rights there appears to be no conflict with the federal constitution. In an opinion dated April 12, 2004, the Legislative Counsel opined that an amendment to the California Constitution to permit a person under the age of 18 to vote would not violate federal law.”

Fiscal Impact

Proposition 18 would not have a significant fiscal impact on counties.

Policy Considerations

Existing CSAC Policy

The California County Platform, CSAC’s adopted statement of the basic policies of concern and interest to California’s counties, states in Chapter 5 on Government Operations “Counties support efficient and accessible voting for all.”

Staff Contact

Please contact Geoff Neill at gneill@counties.org or Ada Waelder at awaelder@counties.org.

Resources

- 1) [Full text of Ballot Initiative](#)
- 2) [Senate Elections and Constitutional Amendments Committee Analysis](#)

RESOLUTION CHAPTER 30

Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article II thereof, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, Mullin. Elections: voting age.

The California Constitution authorizes any person who is a United States citizen, at least 18 years of age, and a resident of the state to vote.

This measure, in addition, would authorize a United States citizen who is 17 years of age, is a resident of the state, and will be at least 18 years of age at the time of the next general election to vote in any primary or special election that occurs before the next general election in which the citizen would be eligible to vote if at least 18 years of age.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2019–20 Regular Session commencing on the third day of December 2018, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

That Section 2 of Article II thereof is amended to read:

SEC. 2. (a) A United States citizen who is at least 18 years of age and a resident in this State may vote.

(b) A United States citizen who is 17 years of age, is a resident in this State, and will be at least 18 years of age at the time of the next general election may vote in any primary or special election that occurs before the next general election in which the citizen would be eligible to vote if at least 18 years of age.

constitution. In an opinion dated April 12, 2004, the Legislative Counsel opined that an amendment to the California Constitution to permit a person under the age of 18 to vote would not violate federal law.

Other States. Although it appears that no state allows people under the age of 18 to vote in federal general elections, according to information from the National Conference of State Legislatures, at least 18 states (Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Mississippi, Nebraska, New Mexico, North Carolina, Ohio, South Carolina, Utah, Vermont, Virginia, and West Virginia) and the District of Columbia permit a 17-year-old to vote in a primary election if the voter will turn 18 by the time of the general election. In some other states, 17-year-olds are allowed to participate in presidential caucuses if they will be 18 by the date of the general election, though the eligibility requirements for participating in a presidential caucus generally is determined by the political party conducting the caucus.

At least two localities (Takoma Park and Hyattsville, Maryland) have allowed 16- and 17-year-olds to vote in municipal elections. Takoma Park first permitted 16- and 17-year-olds to vote in its elections held in 2013, and Hyattsville first allowed 16- and 17-year-olds to vote in its 2015 elections. The city of Greenbelt, Maryland amended its charter in 2018 to allow 16- and 17-year-olds to vote in municipal elections. The first election in Greenbelt with a lower voting age requirement was held in November 2019.

Lowering the Voting Age in California. In 2016, voters in the City of Berkeley approved a charter amendment that permits the City Council to lower the voting age to 16 years old for school board elections.

In 2020, the San Francisco Board of Supervisors introduced a charter amendment that would permit 16- and 17-year-old residents to vote in San Francisco's municipal elections. In 2016, a similar ballot measure, known as Proposition F, was proposed and subsequently rejected by San Francisco voters.

Additionally, in 2020, the Oakland City Council voted to submit a ballot measure to the voters for the November 3, 2020 general election that would amend the city's charter to authorize the City Council to allow eligible individuals who are at least 16 years old to vote for the office of School Director by ordinance.

COMMENTS

- 1) According to the author: ACA 4 will allow individuals who are 17 years of age who will be 18 years of age by the general election to register to vote and to vote in primary and special elections that occur after the individual registers to vote. This measure will amplify the voices of young voters in California by allowing more first-time voters to take part in the full election cycle rather than just the general election. This important change will result in a more inclusive election process in California, ensuring that first-time voters have the opportunity to select candidates that will ultimately appear on the November ballot.

This would also create an opportunity to increase voter turnout among youth voters. Allowing 17-year-olds to register and participate in primary elections would complement the civic education many receive in high school. Research indicates

that voting is habit-forming. Early involvement in the electoral process for first-time voters should be a high priority for this reason.

- 2) More than a Primary. Unlike other states, California and numerous local jurisdictions within California use the state's primary election for other elective purposes beyond deciding which candidates qualify for the general election. For example, the Legislature is able to place a ballot measure on the primary ballot. In the March 2020 election, there was one statewide ballot measure on the ballot. Additionally, many local jurisdictions (counties, cities, school boards, special districts, etc.) also elect their members and/or place ballot measures for voter approval on the primary ballot. For a large number of these jurisdictions, there is no run-off in the general election. This measure does not prohibit a voter under the age of 18 from voting on any contest on the ballot in a primary. However, it should be noted that many of the contests on a primary ballot will not appear on ballot for the general election.
- 3) Other Election Dates. Local elections can also take place on an established election date other than the statewide primary date and the day of the general election. For example, an election was held on April 14, 2020 in Los Angeles County for few charter cities. Among the cities taking part in the April 14 elections, the City of Lancaster, elected a mayor, councilmembers, and decided on a ballot measure. This election and other elections held on this date were not special elections nor a primary election.

Since there are local offices and ballot measures decided on an established election date on a day other than a special election and in between the primary and general election, the author should consider whether a 17-year-old should be able to vote in elections beyond an intervening primary or special election that occurs before the next general election.

- 4) Age of Majority. This measure breaks with traditional notions of the age of majority and the responsibilities and privileges that accompany it. For the most part, California law does not allow minors to enter into civil contracts, including marriage, or to be held to the same standards of accountability in criminal matters, except in certain circumstances.

With a few limited exceptions (most notably the legal drinking age and the legal smoking age), California confers the legal rights and responsibilities attendant with adulthood on those individuals who are 18 years of age or older. The committee should consider whether the right to vote is appropriate to confer on certain individuals who have not yet reached the age of majority.

- 5) Argument in Support. In a letter supporting ACA 4, the California Association of Student Councils, stated, in part, the following:

This amendment would serve as a means to further channel the civic enthusiasm among 17 year olds into the habitual practice of voting. By allowing students who will turn 18 before the general election the chance to be involved in the preliminary stages, California would provide them with an incentive to follow through in the elections process rather than asking them to dive head first into the general election.

- 6) Argument in Opposition. In a letter opposing ACA 4, Election Integrity Project California, Inc., stated, in part, the following:

...18-year-olds will almost always be high school graduates by November, either beginning to earn their way in the world or beginning to prepare for a future career by vocational training or enrollment in an institution of higher learning. This entrance into "real life" creates a sobering and maturing effect that 17-year-olds will not have experienced. Most will see the world differently, more responsibly, and will feel more ownership for their own lives and the political decisions that affect them. Only when people reach that stage can they cast an educated vote.

There is NO legitimate reason to extend voting rights to legal minors, and many scientific and logical reasons not to.

- 7) Approval by Voters. As a constitutional amendment, this measure requires the approval of the voters to take effect. Legislation making statutory changes necessary to implement this measure would also be required.

RELATED/PRIOR LEGISLATION

ACA 2 (Mullin) of 2015, ACA 7 (Mullin) of 2013, ACA 2 (Furutani) of 2009, ACA 17 (Mullin) of 2005, and ACA 25 (Mullin) of 2004, all were similar to ACA 4. All of these measures were approved by the Assembly Elections & Redistricting Committee (or, in the case of ACA 25 of 2004, the Assembly Elections, Redistricting, and Constitutional Amendments Committee), but none of the measures passed off the Assembly Floor.

ACA 8 (Low) of 2020, would lower the voting age to 17 year olds. Similarly, ACA 10 (Low) of 2017 proposed lowering the voting age to 17. ACA 10 failed passage on the Assembly Floor.

ACA 7 (Gonzalez) of 2016, would have permitted 16 and 17 year olds to vote in school and community college district governing board elections, as specified. A vote was not taken when the measure was heard in the Assembly Committee on Elections and Redistricting.

AB 2517 (Thurmond) of 2016, would have allowed a charter city to permit 16 and 17 year olds to vote in school district elections if those elections are governed by the city's charter, as specified. A vote was not taken when the bill was heard in the Assembly Committee on Elections and Redistricting.

AB 30 (Price), Chapter 364, Statutes of 2009, allows a person who is 17 years of age to pre-register to vote, provided he or she would otherwise meet all eligibility requirements.

SB 113 (Jackson), Chapter 619, Statutes of 2014, expands pre-registration by authorizing a 16 year old to pre-register to vote, provided the person meets all other eligibility requirements.

SCA 19 (Vasconcellos) of 2004, initially proposed to lower the voting age to 14 years,

with votes by 14 and 15 year olds counting as one-quarter of a vote, and votes by 16 and 17 year olds counting as one-half of a vote. SCA 19 subsequently was amended instead to lower the voting age to 16, with all votes counting equally as a single vote. SCA 19 failed passage in the Senate Appropriations Committee.

ACA 23 (Speier) of 1995 proposed lowering the voting age to 14, but was never set for a hearing in the Assembly Elections, Reapportionment, and Constitutional Amendments Committee.

ACA 6 (McCarty) of 2020 would permit a person who is on parole for the conviction of a felony to register to vote and to vote.

PRIOR ACTION

Assembly Floor:	58 - 13
Assembly Appropriations Committee:	13 - 4
Assembly Elections and Redistricting Committee:	4 - 0

POSITIONS

Sponsor: Author

Support: California Secretary of State, Alex Padilla
 Alliance for Boys and Men of Color
 California Association of Student Councils
 California League of Conservation Voters
 California School Boards Association
 California YMCA Youth & Government
 IGNITE
 League of Women Voters of California
 Peninsula Young Democrats
 University of California Student Association

Oppose: California Election Integrity Project, Inc.

-- END --